

House Bill 1198

By: Representatives Meadows of the 5th, Houston of the 170th, Smith of the 131st, Hembree of the 67th, Coleman of the 97th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 1 of Chapter 7 of Title 19 of the Official Code of Georgia Annotated,
2 relating to general provisions for parent and child relationships generally, so as to modify
3 provisions relating to grandparent visitation rights; to provide for an opportunity to seek
4 grandparent visitation in cases where the parent is deceased, incapacitated, or incarcerated
5 or otherwise unable to exercise his or her discretion regarding a decision to permit
6 grandparent visitation; to provide for related matters; to repeal conflicting laws; and for other
7 purposes.

8 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

9 **SECTION 1.**

10 Article 1 of Chapter 7 of Title 19 of the Official Code of Georgia Annotated, relating to
11 general provisions for parent and child relationships generally, is amended by revising Code
12 Section 19-7-3, relating to "grandparent" defined, original actions for visitation rights or
13 intervention, revocation or amendment of visitation rights, appointment of guardian ad litem,
14 mediation, and hearing, as follows:

15 "19-7-3.

16 (a) As used in this Code section, the term 'grandparent' means the parent of a parent of a
17 minor child, the parent of a minor child's parent who has died, and the parent of a minor
18 child's parent whose parental rights have been terminated.

19 (b) Except as otherwise provided in this subsection, any grandparent shall have the right
20 to file an original action for visitation rights to a minor child or to intervene in and seek to
21 obtain visitation rights in any action in which any court in this state shall have before it any
22 question concerning the custody of a minor child, a divorce of the parents or a parent of
23 such minor child, a termination of the parental rights of either parent of such minor child,
24 or visitation rights concerning such minor child or whenever there has been an adoption in
25 which the adopted child has been adopted by the child's blood relative or by a stepparent,
26 notwithstanding the provisions of Code Section 19-8-19. This subsection shall not

27 authorize an original action where the parents of the minor child are not separated and the
 28 child is living with both of the parents.

29 (c)(1) Upon the filing of an original action or upon intervention in an existing proceeding
 30 under subsection (b) of this Code section, the court may grant any grandparent of the
 31 child reasonable visitation rights if the court finds the health or welfare of the child would
 32 be harmed unless such visitation is granted, and if the best interests of the child would be
 33 served by such visitation. In considering whether the health or welfare of the child would
 34 be harmed without such visitation, the court shall consider and may find that harm to the
 35 child is reasonably likely to result where:

36 (A) The minor child previously resided with the grandparent for six months or more;

37 (B) The grandparent has provided significant financial resources for the basic needs
 38 of the child over an extended period of time;

39 (C) There has been an established pattern of previous regular visitation or child care
 40 by the grandparent with the child; or

41 (D) Any other circumstance indicating that emotional or physical harm is reasonably
 42 likely to result.

43 The court shall make specific written findings of fact in support of its rulings. ~~There shall~~
 44 ~~be no presumption in favor of visitation by any grandparent.~~ An original action
 45 requesting visitation rights shall not be filed by any grandparent more than once during
 46 any two-year period and shall not be filed during any year in which another custody
 47 action has been filed concerning the child. After visitation rights have been granted to
 48 any grandparent, the legal custodian, guardian of the person, or parent of the child may
 49 petition the court for revocation or amendment of such visitation rights, for good cause
 50 shown, which the court, in its discretion, may grant or deny; but such a petition shall not
 51 be filed more than once in any two-year period.

52 (2) While a parent's decision regarding grandparent visitation shall be given deference,
 53 such deference shall not be conclusive where failure to provide grandparent contact
 54 would result in emotional harm to the child. A court may presume that a child that is
 55 denied any and all contact with a grandparent or who is not provided some minimal
 56 opportunity for contact with his or her grandparent shall suffer emotional injury that is
 57 harmful to the child's health. Such presumption shall be a rebuttable presumption.

58 (d) In no case shall the grant of visitation rights to a grandparent interfere with a child's
 59 school or regularly scheduled extracurricular activities. Visitation time awarded to a
 60 grandparent shall not exceed 24 hours in any one month except where the court finds that
 61 special needs or circumstances require additional time in order to protect the health or
 62 welfare of the child. The total visitation time awarded to two or more grandparents

63 residing at the same residence shall be shared such that their collective time shall not
 64 exceed 24 hours in any one month.

65 (f) If one of the parents of a minor child dies, is incapacitated, or incarcerated, the parent
 66 of the deceased, incapacitated, or incarcerated parent of such minor child may have
 67 reasonable visitation to the child during his or her minority, if the court in its discretion
 68 finds that such visitation would be in the best interest of the child. The custodial parent's
 69 judgment as to the best interest of the child regarding visitation shall be given deference
 70 but shall not be conclusive. Reasonable visitation shall be as provided in this Code section.

71 ~~(d)~~(g) If the court finds that the grandparent or grandparents can bear the cost without
 72 unreasonable financial hardship, the court, at the sole expense of the petitioning
 73 grandparent or grandparents, may:

- 74 (1) Appoint a guardian ad litem for the minor child; and
 75 (2) Assign the issue of visitation rights of a grandparent for mediation.

76 ~~(e)~~(h) In the event that the court does not order mediation or upon failure of the parties to
 77 reach an agreement through mediation, the court shall fix a time for the hearing of the issue
 78 of visitation rights of the grandparent or grandparents.

79 (i) Whether or not visitation is awarded to a grandparent, the court may direct, by court
 80 order, that such grandparent be notified by the custodial parent of all publicly attended
 81 performances of the minor child including musical concerts, graduations, recitals, and
 82 sporting events or games so that the child's grandparent may be able to attend and watch
 83 their grandchild's public performance."

84 **SECTION 2.**

85 All laws and parts of laws in conflict with this Act are repealed.