

The Senate Judiciary Committee offered the following substitute to HB 1198:

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 provide for an effective date; to
7 repeal conflicting laws; and for other 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)(1) Except as otherwise provided in paragraph (2) of this subsection, any grandparent
20 shall have the right to file an original action for visitation rights to a minor child or to
21 intervene in and seek to obtain visitation rights in any action in which any court in this
22 state shall have before it any question concerning the custody of a minor child, a divorce
23 of the parents or a parent of such minor child, a termination of the parental rights of either
24 parent of such minor child, or visitation rights concerning such minor child or whenever
25 there has been an adoption in which the adopted child has been adopted by the child's

26 blood relative or by a stepparent, notwithstanding the provisions of Code Section
27 19-8-19.

28 (2) This subsection shall not authorize an original action where the parents of the minor
29 child are not separated and the child is living with both of the parents.

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

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

38 (B) The grandparent provided financial support for the basic needs of the child for at
39 least one year;

40 (C) There was an established pattern of regular visitation or child care by the
41 grandparent with the child; or

42 (D) Any other circumstance exists indicating that emotional or physical harm would
43 be reasonably likely to result if such visitation is not granted.

44 The court shall make specific written findings of fact in support of its rulings. ~~There shall~~
45 ~~be no presumption in favor of visitation by any grandparent.~~

46 (2) An original action requesting visitation rights shall not be filed by any grandparent
47 more than once during any two-year period and shall not be filed during any year in
48 which another custody action has been filed concerning the child. After visitation rights
49 have been granted to any grandparent, the legal custodian, guardian of the person, or
50 parent of the child may petition the court for revocation or amendment of such visitation
51 rights, for good cause shown, which the court, in its discretion, may grant or deny; but
52 such a petition shall not be filed more than once in any two-year period.

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

60 (4) In no case shall the granting of visitation rights to a grandparent interfere with a
61 child's school or regularly scheduled extracurricular activities. Visitation time awarded
62 to a grandparent shall not be less than 24 hours in any one-month period.

63 (d) Notwithstanding the provisions of subsections (b) and (c) of this Code section, if one
 64 of the parents of a minor child dies, is incapacitated, or is incarcerated, the court may award
 65 the parent of the deceased, incapacitated, or incarcerated parent of such minor child
 66 reasonable visitation to such child during his or her minority if the court in its discretion
 67 finds that such visitation would be in the best interests of the child. The custodial parent's
 68 judgment as to the best interests of the child regarding visitation shall be given deference
 69 by the court but shall not be conclusive.

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

73 (1) Appoint a guardian ad litem for the minor child; and

74 (2) Assign the issue of visitation rights of a grandparent for mediation.

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

78 (g) Whether or not visitation is awarded to a grandparent, the court may direct a custodial
 79 parent, by court order, to notify such grandparent of every performance of the minor child
 80 to which the public is admitted, including, but not limited to, musical concerts, graduations,
 81 recitals, and sporting events or games."

82 **SECTION 2.**

83 This Act shall become effective upon its approval by the Governor or upon its becoming law
 84 without such approval.

85 **SECTION 3.**

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