

House Bill 229

By: Representatives Strickland of the 111th, Welch of the 110th, Meadows of the 5th, Fleming of the 121st, Hightower of the 68th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 19 of the Official Code of Georgia Annotated, relating to domestic relations,
2 so as to expand grandparent rights to visitation and intervention to great-grandparents and
3 siblings of parents; to conform cross-references relating to adoption; to provide for related
4 matters; to repeal conflicting laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 style="text-align:center">**SECTION 1.**

7 Title 19 of the Official Code of Georgia Annotated, relating to domestic relations, is
8 amended by revising Code Section 19-7-3, relating to grandparent visitation rights and
9 intervention, as follows:

10 "19-7-3.

11 (a) As used in this Code section, the term '~~grandparent~~':

12 (1) 'Family member' means a grandparent, great-grandparent, or sibling.

13 (2) 'Grandparent' means the parent of a parent of a minor child, the parent of a minor
14 child's parent who has died, and the parent of a minor child's parent whose parental rights
15 have been terminated.

16 (3) 'Great-grandparent' means the parent of the parent of a parent of a minor child, the
17 parent of the parent of a minor child's parent who has died, and the parent of the parent
18 of a minor child's parent whose parental rights have been terminated.

19 (4) 'Sibling' means the brother or sister of a parent of a minor child, the brother or sister
20 of a minor child's parent who has died, and the brother or sister of a minor child's parent
21 whose parental rights have been terminated.

22 (b)(1) Except as otherwise provided in paragraph (2) of this subsection, any ~~grandparent~~
23 family member shall have the right to file an original action for visitation rights to a
24 minor child or to intervene in and seek to obtain visitation rights in any action in which
25 any court in this state shall have before it any question concerning the custody of a minor
26 child, a divorce of the parents or a parent of such minor child, a termination of the

27 parental rights of either parent of such minor child, or visitation rights concerning such
 28 minor child or whenever there has been an adoption in which the adopted child has been
 29 adopted by the child's blood relative or by a stepparent, notwithstanding the provisions
 30 of Code Section 19-8-19.

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

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

41 (A) The minor child resided with the ~~grandparent~~ family member for six months or
 42 more;

43 (B) The ~~grandparent~~ family member provided financial support for the basic needs of
 44 the child for at least one year;

45 (C) There was an established pattern of regular visitation or child care by the
 46 ~~grandparent~~ family member with the child; or

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

49 The court shall make specific written findings of fact in support of its rulings.

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

58 (3) While a parent's decision regarding ~~grandparent~~ family member visitation shall be
 59 given deference by the court, the parent's decision shall not be conclusive when failure
 60 to provide ~~grandparent~~ family member contact would result in emotional harm to the
 61 child. A court may presume that a child who is denied any contact with his or her
 62 ~~grandparent~~ family member or who is not provided some minimal opportunity for contact

63 with his or her ~~grandparent~~ family member may suffer emotional injury that is harmful
64 to such child's health. Such presumption shall be a rebuttable presumption.

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

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

76 (e) If the court finds that the ~~grandparent or grandparents~~ family member can bear the cost
77 without unreasonable financial hardship, the court, at the sole expense of the petitioning
78 ~~grandparent or grandparents~~ family member, may:

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

80 (2) Assign the issue of visitation rights of a ~~grandparent~~ family member for mediation.

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

84 (g) Whether or not visitation is awarded to a ~~grandparent~~ family member, the court may
85 direct a custodial parent, by court order, to notify such ~~grandparent~~ family member of every
86 performance of the minor child to which the public is admitted, including, but not limited
87 to, musical concerts, graduations, recitals, and sporting events or games.

88 (h) When more than one family member files an action pursuant to this Code section, the
89 court shall determine the priority of such actions."

90 **SECTION 2.**

91 Said title is further amended by revising subsection (f) of Code Section 19-8-13, relating to
92 the petition for adoption, filing, and contents, as follows:

93 "(f) Whenever a petitioner is a blood relative of the child to be adopted and a ~~grandparent~~
94 family member other than the petitioner has visitation rights to the child granted pursuant
95 to Code Section 19-7-3, the petitioner shall cause a copy of the petition for adoption to be
96 served upon the ~~grandparent~~ family member with the visitation rights or upon such person's
97 counsel of record."

98

SECTION 3.

99 Said title is further amended by revising Code Section 19-8-15, relating to when objections
100 may be filed by relatives to petition for adoption, as follows:

101 "19-8-15.

102 If the child sought to be adopted has no legal father or legal mother living, it shall be the
103 privilege of any person related by blood to the child to file objections to the petition for
104 adoption. A ~~grandparent~~ family member with visitation rights to a child granted pursuant
105 to Code Section 19-7-3 shall have the privilege to file objections to the petition of adoption
106 if neither parent has any further rights to the child and if the petition for adoption has been
107 filed by a blood relative of the child. The court, after hearing such objections, shall
108 determine, in its discretion, whether or not the same constitute a good reason for denying
109 the petition and the court shall have the authority to grant or continue such visitation rights
110 of the ~~grandparent to~~ family member of the child in the adoption order in the event the
111 adoption by the blood relative is approved by the court."

112

SECTION 4.

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