

Senate Bill 245

By: Senators Hodges of the 3rd, Kennedy of the 18th, Kirkpatrick of the 32nd, Albers of the 56th, Hickman of the 4th and others

**AS PASSED SENATE**

A BILL TO BE ENTITLED  
AN ACT

1 To amend Code Section 19-7-3 of the Official Code of Georgia Annotated, relating to actions  
2 by grandparents or other family members for visitation rights or intervention, revocation or  
3 amendment of visitation rights, appointment of guardian ad litem, mediation, hearing, and  
4 notification to family members of child's participation in events, so as to include  
5 grandparents within the category of persons who may seek to revoke or amend an existing  
6 grandparent visitation order; to provide for the revocation or amendment of grandparent  
7 visitation rights in cases where the parent of a minor child is deceased, incapacitated, or  
8 incarcerated; to provide for related matters; to repeal conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 **SECTION 1.**

11 Code Section 19-7-3 of the Official Code of Georgia Annotated, relating to actions by  
12 grandparents or other family members for visitation rights or intervention, revocation or  
13 amendment of visitation rights, appointment of guardian ad litem, mediation, hearing, and  
14 notification to family members of child's participation in events, is amended by revising  
15 subsections (c) and (d) as follows:

S. B. 245

16       “(c)(1) Upon the filing of an original action or upon intervention in an existing  
17 proceeding under subsection (b) of this Code section, the court may grant any family  
18 member of the child reasonable visitation rights if the court finds by clear and convincing  
19 evidence that the health or welfare of the child would be harmed unless such visitation  
20 is granted and if the best interests of the child would be served by such visitation. The  
21 mere absence of an opportunity for a child to develop a relationship with a family  
22 member shall not be considered as harming the health or welfare of the child when there  
23 is no substantial preexisting relationship between the child and such family member. In  
24 considering whether the health or welfare of the child would be harmed without such  
25 visitation, the court shall consider and may find that harm to the child is reasonably likely  
26 to result when, prior to the original action or intervention:

27       (A) The minor child resided with the family member for six months or more;

28       (B) The family member provided financial support for the basic needs of the child for  
29 at least one year;

30       (C) There was an established pattern of regular visitation with the child by the family  
31 member or child care provided by the family member ~~with~~ for the child; or

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

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

35       (2) An original action requesting visitation rights shall not be filed by any grandparent  
36 more than once during any two-year period and shall not be filed during any year in  
37 which another custody action has been filed concerning the child. After visitation rights  
38 have been granted to any grandparent, such grandparent, or the legal custodian, guardian  
39 ~~of the person~~, or parent of the child, may petition the court for revocation or amendment  
40 of such visitation rights; for good cause shown, which the court, in its discretion, may  
41 grant or deny; ~~but~~ provided, however, that such a petition shall not be filed more than  
42 once ~~in~~ during any two-year period.

43 (3) While a parent's decision regarding family member visitation shall be given  
44 deference by the court, the parent's decision shall not be conclusive when failure to  
45 provide family member contact would result in emotional harm to the child. A court may  
46 presume that a child who is denied any contact with his or her family member or who is  
47 not provided some minimal opportunity for contact with his or her family member when  
48 there is a preexisting relationship between the child and such family member may suffer  
49 emotional injury that is harmful to such child's health. Such presumption shall be a  
50 rebuttable presumption.

51 (4) In no case shall the granting of visitation rights to a family member interfere with a  
52 child's school or regularly scheduled extracurricular activities.

53 (5) Visitation time awarded to a family member shall not be less than 24 hours in any  
54 one-month period; provided, however, that when more than one individual seeks  
55 visitation under this Code section, the court shall determine the amount of time to award  
56 to each petitioner which shall not be less than 24 hours in any one-month period in the  
57 aggregate.

58 (d)(1) Notwithstanding the provisions of subsections (b) and (c) of this Code section, if  
59 one of the parents of a minor child dies, is incapacitated, or is incarcerated, the court may  
60 award the parent of the deceased, incapacitated, or incarcerated parent of such minor  
61 child reasonable visitation to such child during his or her minority if the court finds by  
62 clear and convincing evidence that the health or welfare of the child would be harmed  
63 unless such visitation is granted and if the best interests of the child would be served by  
64 such visitation. After such visitation rights have been granted to any parent of the  
65 deceased, incapacitated, or incarcerated parent of the minor child, such parent may  
66 petition the court for revocation or amendment of such visitation rights for good cause  
67 shown, which the court, in its discretion, may grant or deny; provided, however, that such  
68 a petition shall not be filed more than once during any two-year period. The mere  
69 absence of an opportunity for a child to develop a relationship with a grandparent shall

70 not be considered as harming the health or welfare of the child when there is no  
71 substantial preexisting relationship between the child and such grandparent. The  
72 custodial parent's judgment as to the best interests of the child regarding visitation shall  
73 be given deference by the court but shall not be conclusive. In considering whether the  
74 health or welfare of the child would be harmed without such visitation, the court shall  
75 consider and may find that harm to the child is reasonably likely to result when, prior to  
76 the death, incapacitation, or incarceration of the child's parent:

- 77 (A) The minor child resided with the grandparent for six months or more;  
78 (B) The grandparent provided financial support for the basic needs of the child for at  
79 least one year;  
80 (C) There was an established pattern of regular visitation or child care by the  
81 grandparent with the child; or  
82 (D) Any other circumstance exists indicating that emotional or physical harm would  
83 be reasonably likely to result if such visitation is not granted.

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

85 (2) While a custodial parent's decision regarding grandparent visitation shall be given  
86 deference by the court, the parent's decision shall not be conclusive when failure to  
87 provide grandparent contact would result in emotional harm to the child. A court may  
88 presume that a child who is denied any contact with his or her grandparent or who is not  
89 provided some minimal opportunity for contact with his or her grandparent when there  
90 is a preexisting relationship between the child and such grandparent may suffer emotional  
91 injury that is harmful to such child's health. Such presumption shall be a rebuttable  
92 presumption."

93 **SECTION 2.**

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