

House Bill 229 (AS PASSED HOUSE AND SENATE)

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 change provisions relating to a grandparent's right to intervention in certain domestic
3 relation cases; to allow for intervention by great-grandparents and siblings of parents; to
4 provide for definitions; to provide for an evidentiary standard; to conform cross-references
5 relating to adoption; to provide for related matters; to repeal conflicting laws; and for other
6 purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 SECTION 1.

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

12 "19-7-3.

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

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

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

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

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

24 (b)(1) Except as otherwise provided in paragraph (2) of this subsection, ~~any~~:

25 (A) Any grandparent shall have the right to file an original action for visitation rights
26 to a minor child or; and

27 (B) Any family member shall have the right to intervene in and seek to obtain
 28 visitation rights in any action in which any court in this state shall have before it any
 29 question concerning the custody of a minor child, a divorce of the parents or a parent
 30 of such minor child, a termination of the parental rights of either parent of such minor
 31 child, or visitation rights concerning such minor child or whenever there has been an
 32 adoption in which the adopted child has been adopted by the child's blood relative or
 33 by a stepparent, notwithstanding the provisions of Code Section 19-8-19.

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

36 (c)(1) Upon the filing of an original action or upon intervention in an existing proceeding
 37 under subsection (b) of this Code section, the court may grant any grandparent family
 38 member of the child reasonable visitation rights if the court finds by clear and convincing
 39 evidence that the health or welfare of the child would be harmed unless such visitation
 40 is granted and if the best interests of the child would be served by such visitation. The
 41 mere absence of an opportunity for a child to develop a relationship with a family
 42 member shall not be considered as harming the health or welfare of the child when there
 43 is no substantial preexisting relationship between the child and such family member. In
 44 considering whether the health or welfare of the child would be harmed without such
 45 visitation, the court shall consider and may find that harm to the child is reasonably likely
 46 to result ~~where~~ when, prior to the original action or intervention:

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

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

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

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

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

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

63 (3) While a parent's decision regarding ~~grandparent~~ family member visitation shall be
 64 given deference by the court, the parent's decision shall not be conclusive when failure
 65 to provide ~~grandparent~~ family member contact would result in emotional harm to the
 66 child. A court may presume that a child who is denied any contact with his or her
 67 ~~grandparent~~ family member or who is not provided some minimal opportunity for contact
 68 with his or her ~~grandparent~~ family member when there is a preexisting relationship
 69 between the child and such family member may suffer emotional injury that is harmful
 70 to such child's health. Such presumption shall be a rebuttable presumption.

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

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

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

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

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

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

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

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

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

99

SECTION 2.

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

102 "(f)(1) As used in this subsection, the term 'family member' shall have the same meaning
 103 as set forth in Code Section 19-7-3.

104 (2) Whenever a petitioner is a blood relative of the child to be adopted and a grandparent
 105 family member other than the petitioner has visitation rights to the child granted pursuant
 106 to Code Section 19-7-3, the petitioner shall cause a copy of the petition for adoption to
 107 be served upon the grandparent family member with the visitation rights or upon such
 108 person's counsel of record."

109

SECTION 3.

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

112 "19-8-15.

113 (1) As used in this Code section, the term 'family member' shall have the same meaning
 114 as set forth in Code Section 19-7-3.

115 (2) If the child sought to be adopted has no legal father or legal mother living, it shall be
 116 the privilege of any person related by blood to the child to file objections to the petition
 117 for adoption. A grandparent family member with visitation rights to a child granted
 118 pursuant to Code Section 19-7-3 shall have the privilege to file objections to the petition
 119 of adoption if neither parent has any further rights to the child and if the petition for
 120 adoption has been filed by a blood relative of the child. The court, after hearing such
 121 objections, shall determine, in its discretion, whether or not the same constitute a good
 122 reason for denying the petition and the court shall have the authority to grant or continue
 123 such visitation rights of the grandparent to family member of the child in the adoption
 124 order in the event the adoption by the blood relative is approved by the court."

125

SECTION 4.

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