

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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HOUSE BILL 239

Short Title: Grandparents' Visitation Rights. (Public)

Sponsors: Representatives Brisson, Howard, and Hurley (Primary Sponsors).
For a complete list of Sponsors, see Bill Information on the NCGA Web Site.

Referred to: Judiciary Subcommittee C.

March 8, 2011

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE FOR AN EXPANSION OF RIGHTS UNDER EXISTING LAW
3 REGARDING GRANDPARENT VISITATION.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** G.S. 50-13.2(b1) reads as rewritten:

6 "(b1) An order for custody of a minor child may provide visitation rights for any
7 grandparent of the child as the court, in its discretion, deems appropriate. ~~As used in this~~
8 ~~subsection, "grandparent" includes a biological grandparent of a child adopted by a stepparent~~
9 ~~or a relative of the child where a substantial relationship exists between the grandparent and the~~
10 ~~child.~~ Under no circumstances shall a biological grandparent of a child adopted by adoptive
11 parents, neither of whom is related to the child and where parental rights of both biological
12 parents have been terminated, be entitled to visitation rights."

13 **SECTION 2.** G.S. 50-13.2A reads as rewritten:

14 **"§ 50-13.2A. Action for visitation of an adopted grandchild by grandparent.**

15 (a) A biological grandparent may institute an action or proceeding for visitation rights
16 with a ~~child adopted by a stepparent or a relative of the child where a substantial relationship~~
17 ~~exists between the grandparent and the child.~~ child under the provisions of this section. Under
18 no circumstances shall a biological grandparent of a child adopted by adoptive parents, neither
19 of whom is related to the child and where parental rights of both biological parents have been
20 terminated, be entitled to visitation rights.

21 (b) The court shall determine grandparent visitation rights on a case-by-case basis. In
22 awarding grandparent visitation, the court may determine the time, place, and circumstances of
23 visitation. For purposes of this section, visitation shall not include custody. A court may award
24 visitation rights only if it determines that visitation is in the best interest of the child. An order
25 awarding visitation rights shall contain findings of fact which that support the determination by
26 the judge of the best interest of the child. In determining the best interest of the child, the court
27 shall consider each the following:

- 28 (1) Whether there is a preexisting relationship between the grandparent and the
29 child, or the willingness of the grandparent to encourage a close relationship
30 between the child and the parent.
31 (2) The willingness of the child to develop a relationship with the grandparent,
32 if the court determines that the child is of sufficient maturity to make that
33 decision.
34 (3) The reasonableness or lack of reasonableness of the custodial parent in
35 allowing, restricting, or denying visitation to the grandparent in the past.



- 1 (4) The mental and physical health of the child.
2 (5) The mental and physical health of the grandparent.
3 (6) Whether the circumstances and amount of visitation will substantially
4 interfere with the right of the parent to exercise his or her parental authority.
5 (7) Any other relevant factors the court deems necessary in determining the best
6 interest of the child.

7 There is a rebuttable presumption that visitation by a grandparent is not in the best interest of
8 the child if the child's biological parents agree that the grandparent should not be awarded
9 visitation rights. Procedure, venue, and jurisdiction shall be the same as in an action for
10 custody."

11 **SECTION 3.** G.S. 50-13.5(j) reads as rewritten:

12 "(j) Custody and Visitation Rights of Grandparents. – In any action in which the custody
13 of a minor child has been determined, upon a motion in the cause and a showing of changed
14 circumstances pursuant to G.S. 50-13.7, the grandparents of the child are entitled to such
15 custody or visitation rights as the court, in its discretion, deems appropriate. ~~As used in this~~
16 ~~subsection, "grandparent" includes a biological grandparent of a child adopted by a stepparent~~
17 ~~or a relative of the child where a substantial relationship exists between the grandparent and the~~
18 ~~child.~~ Under no circumstances shall a biological grandparent of a child adopted by adoptive
19 parents, neither of whom is related to the child and where parental rights of both biological
20 parents have been terminated, be entitled to visitation rights."

21 **SECTION 4.** This act is effective when it becomes law and applies to actions for
22 visitation rights commenced on or after that date.