

**GENERAL ASSEMBLY OF NORTH CAROLINA**  
**SESSION 2005**

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**HOUSE BILL 1426**

Short Title: Grandparent Visitation by Special Proceeding. (Public)

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Sponsors: Representatives Culp; McAllister and Walend.

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Referred to: Judiciary II.

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April 21, 2005

A BILL TO BE ENTITLED

1 AN ACT TO ESTABLISH A SPECIAL PROCEEDING WHEREBY THE  
2 GRANDPARENT OF A MINOR CHILD MAY OBTAIN VISITATION RIGHTS  
3 OR CUSTODY WITH RESPECT TO THE CHILD.  
4

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** G.S. 50-13.5 is amended by adding the following new  
7 subsection to read:

8 "(k) Special Proceeding to Obtain Visitation Rights or Custody by Grandparent. –  
9 Where either or both of the parents of a minor child, residing within this State, is or are  
10 deceased, or where circumstances show that conditions exist where equity would see fit  
11 to intervene, a grandparent of a minor child may apply to the court by commencing a  
12 special proceeding to have the child brought before the court, and the court may, in its  
13 discretion, after due notice to the parent or any other person or party having care,  
14 custody, and control of the child and as the court determines is in the best interest of the  
15 child, grant visitation rights to the grandparent with respect to the minor child.

16 Where a grandparent of a minor child, residing within this State, demonstrates to the  
17 court's satisfaction the existence of extraordinary circumstances regarding the minor  
18 child, as determined by the court, the grandparent of the minor child may apply to the  
19 court by commencing a special proceeding to have the child brought before the court,  
20 and the court may, in its discretion, after due notice to the parent or any other person or  
21 party having the care, custody, and control of the child and as the court determines is in  
22 the best interest of the child, grant custody rights to the grandparent with respect to the  
23 minor child. An extended disruption of custody shall constitute an extraordinary  
24 circumstance.

25 For purposes of this subsection, an 'extended disruption of custody' shall include a  
26 prolonged separation of the parent and the child for at least 24 continuous months  
27 during which the parent voluntarily relinquished care and control of the child and the  
28 child resided in the household of the grandparent commencing the special proceeding.

1 However, the court may, in its discretion, find that extraordinary circumstances exist  
2 even if the prolonged separation lasted less than 24 months.

3 Nothing in this subsection shall limit the ability of parties to enter into consensual  
4 agreements absent the existence of extraordinary circumstances."

5 **SECTION 2.** This act is effective when it becomes law.