

HOUSE BILL REPORT

HB 1973

As Reported By House Committee On:

Law & Justice

Title: An act relating to a grandparent's visitation rights.

Brief Description: Modifying a grandparent's visitation rights.

Sponsors: Representatives Wolfe, Lambert, Gombosky, Scott, Carrell, Keiser, Hatfield, Blalock, Gardner, Tokuda, Cole and Anderson.

Brief History:

Committee Activity:

Law & Justice: 2/25/97, 2/27/97 [DPS].

HOUSE COMMITTEE ON LAW & JUSTICE

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 13 members: Representatives Sheahan, Chairman; McDonald, Vice Chairman; Sterk, Vice Chairman; Costa, Ranking Minority Member; Constantine, Assistant Ranking Minority Member; Carrell; Cody; Kenney; Lambert; Lantz; Radcliff; Sherstad and Skinner.

Staff: Edie Adams (786-7180).

Background: When a married couple with children obtain a divorce, the court may order visitation rights for a person other than a parent when visitation with the other person is in the child's best interest. The court must dismiss a petition for visitation by a nonparent if the petitioner fails to prove by clear and convincing evidence that the petitioner has a significant relationship with the child. If the court dismisses the petition, the court must order the petitioner to pay reasonable attorneys' fees and costs to the parent, parents, or other custodian who contests the petition. Visitation may be granted if the court finds that visitation is in the child's best interests. The court may consider a variety of factors when determining whether a petitioner's visitation is in the child's best interest.

Visitation with a grandparent is presumed to be in the child's best interests when a significant relationship exists between the child and the grandparent. This presumption may be rebutted by the evidence. If the court finds that reasonable

visitation would be in the child's best interests except for hostilities that exist between the parent and the grandparent, the court may refer the parties to mediation.

A person other than a parent may petition for visitation with a child only if the child's parent or parents have commenced an action for dissolution or legal separation of marriage.

Summary of Substitute Bill: A grandparent may petition the court for visitation with a child if the parent of the child who is the son or daughter of the grandparent is deceased. The court shall order visitation if the visitation is in the child's best interests.

Visitation with a grandparent is presumed to be in the child's best interest when a significant relationship exists between the grandparent and the child. This presumption may be overcome if it is shown by a preponderance of the evidence that visitation would endanger the child's physical, mental, or emotional health. The court may order mediation if the court finds that visitation would be in the best interests of the child, except for hostilities that exist between the parent and the grandparent.

Substitute Bill Compared to Original Bill: The substitute bill restructures the section for clarification.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date of Substitute Bill: Ninety days after adjournment of session in which bill is passed.

Testimony For: Legislation that passed last year had the unintended consequence of preventing grandparents from seeking visitation with a grandchild when their child is deceased. A child should be able to see all relatives. Visitation with grandparents strengthens the family and makes it easier for families to stay together. Grandchildren have the right to see their grandparents. A grandparent may be the only stabilizing force in a child's life if the parents' relationship is dysfunctional.

Testimony Against: None.

Testified: Representative Wolfe, prime sponsor; John Weers, United Grandparents Rights (pro); and Elizabeth Chambers, citizen (pro).