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HOUSE BILL 1973

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State of Washington

55th Legislature

1997 Regular Session

By Representatives Wolfe, Lambert, Gombosky, Scott, Carrell, Keiser, Hatfield, Blalock, Gardner, Tokuda, Cole and Anderson

Read first time 02/17/97. Referred to Committee on Law & Justice.

1 AN ACT Relating to a grandparent's visitation rights; and amending  
2 RCW 26.09.240.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 26.09.240 and 1996 c 177 s 1 are each amended to read  
5 as follows:

6 (1)(a) A person other than a parent may petition the court for  
7 visitation with a child at any time or may intervene in a pending  
8 dissolution, legal separation, or modification of parenting plan  
9 proceeding. Except as provided in subsection (2) of this section, a  
10 person other than a parent may not petition for visitation under this  
11 section unless the child's parent or parents have commenced an action  
12 under this chapter.

13 ~~((+2))~~ (b) A petition for visitation with a child by a person  
14 other than a parent must be filed in the county in which the child  
15 resides.

16 ~~((+3))~~ (c) A petition for visitation or a motion to intervene  
17 pursuant to this section shall be dismissed unless the petitioner or  
18 intervenor can demonstrate by clear and convincing evidence that a  
19 significant relationship exists with the child with whom visitation is

1 sought. If the petition or motion is dismissed for failure to  
2 establish the existence of a significant relationship, the petitioner  
3 or intervenor shall be ordered to pay reasonable attorney's fees and  
4 costs to the parent, parents, other custodian, or representative of the  
5 child who responds to this petition or motion.

6 ~~((4))~~ (d) The court may order visitation between the petitioner  
7 or intervenor and the child between whom a significant relationship  
8 exists upon a finding supported by the evidence that the visitation is  
9 in the child's best interests.

10 ~~((5)(a))~~ (e)(i) Visitation with a grandparent shall be presumed  
11 to be in the child's best interests when a significant relationship has  
12 been shown to exist. This presumption may be rebutted by a  
13 preponderance of evidence showing that visitation would endanger the  
14 child's physical, mental, or emotional health.

15 ~~((b))~~ (ii) If the court finds that reasonable visitation by a  
16 grandparent would be in the child's best interest except for  
17 hostilities that exist between the grandparent and one or both of the  
18 parents or person with whom the child lives, the court may set the  
19 matter for mediation under RCW 26.09.015.

20 ~~((6))~~ (f) The court may consider the following factors when  
21 making a determination of the child's best interests:

22 ~~((a))~~ (i) The strength of the relationship between the child and  
23 the petitioner;

24 ~~((b))~~ (ii) The relationship between each of the child's parents  
25 or the person with whom the child is residing and the petitioner;

26 ~~((c))~~ (iii) The nature and reason for either parent's objection  
27 to granting the petitioner visitation;

28 ~~((d))~~ (iv) The effect that granting visitation will have on the  
29 relationship between the child and the child's parents or the person  
30 with whom the child is residing;

31 ~~((e))~~ (v) The residential time sharing arrangements between the  
32 parents;

33 ~~((f))~~ (vi) The good faith of the petitioner;

34 ~~((g))~~ (vii) Any criminal history or history of physical,  
35 emotional, or sexual abuse or neglect by the petitioner; and

36 ~~((h))~~ (viii) Any other factor relevant to the child's best  
37 interest.

38 ~~((7))~~ (g) The restrictions of RCW 26.09.191 that apply to parents  
39 shall be applied to a petitioner or intervenor who is not a parent.

1 The nature and extent of visitation, subject to these restrictions, is  
2 in the discretion of the court.

3 ~~((+8))~~ (h) The court may order an investigation and report  
4 concerning the proposed visitation or may appoint a guardian ad litem  
5 as provided in RCW 26.09.220.

6 ~~((+9))~~ (i) Visitation granted pursuant to this section shall be  
7 incorporated into the parenting plan for the child.

8 ~~((+10))~~ (j) The court may modify or terminate visitation rights  
9 granted pursuant to this section in any subsequent modification action  
10 upon a showing that the visitation is no longer in the best interest of  
11 the child.

12 (2)(a) A grandparent may petition the superior court for visitation  
13 with a child if the parent of the child who is the son or daughter of  
14 the grandparent is deceased. The petition must be filed in the county  
15 in which the child resides.

16 (b) The court shall order visitation between the grandparent and  
17 the child upon a finding supported by the evidence that the visitation  
18 is in the child's best interest.

19 (c)(i) Visitation with a grandparent is presumed to be in the  
20 child's best interest when a significant relationship exists between  
21 the child and the grandparent. This presumption may be rebutted by a  
22 preponderance of evidence showing that visitation would endanger the  
23 child's physical, mental, or emotional health.

24 (ii) If the court finds that reasonable visitation by a grandparent  
25 would be in the child's best interest except for hostilities that exist  
26 between the grandparent and the parent or a person with whom the child  
27 lives, the court may set the matter for mediation.

28 (d) The court may consider the factors enumerated in subsection  
29 (1)(f) of this section when making a determination of the child's best  
30 interests.

31 (e) The restrictions of RCW 26.09.191 that apply to visitation by  
32 parents are applied to a grandparent petitioning under this subsection.  
33 The nature and extent of visitation, subject to these restrictions, is  
34 in the discretion of the court.

35 (f) The court may order an investigation and report concerning the  
36 proposed visitation or may appoint a guardian ad litem.

1       (g) The court may modify or terminate visitation rights granted  
2 pursuant to this section in any subsequent action upon a showing that  
3 the visitation is no longer in the child's best interest.

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