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**SENATE BILL 5005**

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**State of Washington 64th Legislature 2015 Regular Session**

**By** Senators Angel and Rolfes

AN ACT Relating to grandparent visitation rights; amending RCW 26.09.240; and creating a new section.

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

NEW SECTION. **Sec.**  The legislature finds that grandparents are an important and vital part of a healthy and socially well-adjusted child's life. The legislature finds that grandparents add immeasurable value to a child's upbringing and that the relationship between grandparent and grandchild is a special bond which should be honored and respected by the state, parents, and children. Although rare circumstances may exist where it is inadvisable for a grandparent to enjoy regular and frequent contact with a grandchild, in the normal course of events in a child's life, courts and families alike should strive to ensure that such contact occurs.

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

(1) A ((~~person other than a parent~~))grandparent may petition the court for visitation with a ((~~child at any time or may intervene in a pending dissolution, legal separation, or modification of parenting plan proceeding. A person other than a parent may not petition for visitation under this section unless the child's parent or parents have commenced an action under this chapter~~))grandchild. For the purposes of this section, "grandparent" means the blood relative of a son or daughter who is also the parent of a grandchild.

(2) A petition for visitation with a ((~~child~~))grandchild by a ((~~person other than a parent~~))grandparent must be filed in the county in which the child resides.

(3) A petition for visitation ((~~or a motion to intervene pursuant to this section~~)) shall be dismissed unless the grandparent petitioner or intervenor can demonstrate by clear and convincing evidence that a significant relationship exists with the child with whom visitation is sought. If the petition or motion is dismissed for failure to establish the existence of a significant relationship, the grandparent petitioner ((~~or intervenor~~)) shall be ordered to pay reasonable attorneys' fees and costs to the parent, parents, other custodian, or representative of the child who responds to this petition or motion.

(4) The court may order visitation between the grandparent petitioner ((~~or intervenor~~)) and the ((~~child~~))grandchild between whom a significant relationship exists upon a finding supported by the evidence that the denial of visitation ((~~is in the child's best interests~~))would result in harm to the child. The court shall grant special weight to a parent's decision and the court shall presume that the decision in the child's best interests.

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

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

(6) The court may consider the following factors when making a determination of ((~~the child's best interests~~))whether harm to the child would occur:

(a) The strength of the relationship between the child and the ((~~petitioner~~))grandparent;

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

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

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

(e) The residential time sharing arrangements between the parents;

(f) The good faith of the ((~~petitioner~~))grandparent;

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

(h) Any other factor relevant to the child's best interest.

(7) The restrictions of RCW 26.09.191 that apply to parents shall be applied to a petitioner ((~~or intervenor~~)) who is not a parent. The nature and extent of visitation, subject to these restrictions, is in the discretion of the court.

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

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

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

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