

The House Committee on Juvenile Justice offers the following substitute to HB 229:

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 19 of the Official Code of Georgia Annotated, relating to domestic relations,
2 so as to expand grandparent rights to visitation and intervention to great-grandparents and
3 siblings of parents; to provide for definitions; to provide for an evidentiary standard; to
4 conform cross-references relating to adoption; to provide for related matters; to repeal
5 conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Title 19 of the Official Code of Georgia Annotated, relating to domestic relations, is
9 amended by revising Code Section 19-7-3, relating to grandparent visitation rights and
10 intervention, as follows:

11 "19-7-3.

12 (a) As used in this Code section, the term '~~grandparent~~':

13 (1) 'Family member' means a grandparent, great-grandparent, or sibling.

14 (2) 'Grandparent' means the parent of a parent of a minor child, the parent of a minor
15 child's parent who has died, and the parent of a minor child's parent whose parental rights
16 have been terminated.

17 (3) 'Great-grandparent' means the parent of the parent of a parent of a minor child, the
18 parent of the parent of a minor child's parent who has died, and the parent of the parent
19 of a minor child's parent whose parental rights have been terminated.

20 (4) 'Sibling' means the brother or sister of a parent of a minor child, the brother or sister
21 of a minor child's parent who has died, and the brother or sister of a minor child's parent
22 whose parental rights have been terminated.

23 (b)(1) Except as otherwise provided in paragraph (2) of this subsection, any ~~grandparent~~
24 family member shall have the right to file an original action for visitation rights to a
25 minor child or to intervene in and seek to obtain visitation rights in any action in which
26 any court in this state shall have before it any question concerning the custody of a minor

27 child, a divorce of the parents or a parent of such minor child, a termination of the
 28 parental rights of either parent of such minor child, or visitation rights concerning such
 29 minor child or whenever there has been an adoption in which the adopted child has been
 30 adopted by the child's blood relative or by a stepparent, notwithstanding the provisions
 31 of Code Section 19-8-19.

32 (2) This subsection shall not authorize an original action where the parents of the minor
 33 child are not separated and the child is living with both parents.

34 (c)(1) Upon the filing of an original action or upon intervention in an existing proceeding
 35 under subsection (b) of this Code section, the court may grant any grandparent family
 36 member of the child reasonable visitation rights if the court finds by clear and convincing
 37 evidence that the health or welfare of the child would be harmed unless such visitation
 38 is granted and if the best interests of the child would be served by such visitation. The
 39 mere absence of an opportunity for a child to develop a relationship with a family
 40 member shall not be considered as harming the health or welfare of the child when there
 41 is no substantial preexisting relationship between the child and such family member. In
 42 considering whether the health or welfare of the child would be harmed without such
 43 visitation, the court shall consider and may find that harm to the child is reasonably likely
 44 to result ~~where~~ when, prior to the original action or intervention:

- 45 (A) The minor child resided with the grandparent family member for six months or
 46 more;
- 47 (B) The grandparent family member provided financial support for the basic needs of
 48 the child for at least one year;
- 49 (C) There was an established pattern of regular visitation or child care by the
 50 grandparent family member with the child; or
- 51 (D) Any other circumstance exists indicating that emotional or physical harm would
 52 be reasonably likely to result if such visitation is not granted.

53 The court shall make specific written findings of fact in support of its rulings.

54 (2) An original action requesting visitation rights shall not be filed by any grandparent
 55 family member more than once during any two-year period and shall not be filed during
 56 any year in which another custody action has been filed concerning the child. After
 57 visitation rights have been granted to any grandparent family member, the legal
 58 custodian, guardian of the person, or parent of the child may petition the court for
 59 revocation or amendment of such visitation rights, for good cause shown, which the
 60 court, in its discretion, may grant or deny; but such a petition shall not be filed more than
 61 once in any two-year period.

62 (3) While a parent's decision regarding grandparent family member visitation shall be
 63 given deference by the court, the parent's decision shall not be conclusive when failure

64 to provide ~~grandparent~~ family member contact would result in emotional harm to the
 65 child. A court may presume that a child who is denied any contact with his or her
 66 ~~grandparent~~ family member or who is not provided some minimal opportunity for contact
 67 with his or her ~~grandparent~~ family member when there is a preexisting relationship
 68 between the child and such family member may suffer emotional injury that is harmful
 69 to such child's health. Such presumption shall be a rebuttable presumption.

70 (4) In no case shall the granting of visitation rights to a ~~grandparent~~ family member
 71 interfere with a child's school or regularly scheduled extracurricular activities.

72 (5) Visitation time awarded to a ~~grandparent~~ family member shall not be less than 24
 73 hours in any one-month period; provided, however, that when more than one individual
 74 seeks visitation under this Code section, the court shall determine the amount of time to
 75 award to each petitioner which shall not be less than 24 hours in any one-month period
 76 in the aggregate.

77 (d) Notwithstanding the provisions of subsections (b) and (c) of this Code section, if one
 78 of the parents of a minor child dies, is incapacitated, or is incarcerated, the court may award
 79 ~~the parent a~~ family member of the deceased, incapacitated, or incarcerated parent of such
 80 minor child reasonable visitation to such child during his or her minority, which shall not
 81 be less than 24 hours in any one-month period, if the court in its discretion finds that such
 82 visitation would be in the best interests of the child. The custodial parent's judgment as to
 83 the best interests of the child regarding visitation shall be given deference by the court but
 84 shall not be conclusive.

85 (e) If the court finds that the ~~grandparent or grandparents~~ family member can bear the cost
 86 without unreasonable financial hardship, the court, at the sole expense of the petitioning
 87 ~~grandparent or grandparents~~ family member, may:

88 (1) Appoint a guardian ad litem for the minor child; and

89 (2) Assign the issue of visitation rights of a ~~grandparent~~ family member for mediation.

90 (f) In the event that the court does not order mediation or upon failure of the parties to
 91 reach an agreement through mediation, the court shall fix a time for the hearing of the issue
 92 of visitation rights of the ~~grandparent or grandparents~~ family member.

93 (g) Whether or not visitation is awarded to a ~~grandparent~~ family member, the court may
 94 direct a custodial parent, by court order, to notify such ~~grandparent~~ family member of every
 95 performance of the minor child to which the public is admitted, including, but not limited
 96 to, musical concerts, graduations, recitals, and sporting events or games.

97 (h) When more than one family member files an action pursuant to this Code section, the
 98 court shall determine the priority of such actions."

99

SECTION 2.

100 Said title is further amended by revising subsection (f) of Code Section 19-8-13, relating to
 101 the petition for adoption, filing, and contents, as follows:

102 "(f)(1) As used in this subsection, the term 'family member' shall have the same meaning
 103 as set forth in Code Section 19-7-3.

104 (2) Whenever a petitioner is a blood relative of the child to be adopted and a grandparent
 105 family member other than the petitioner has visitation rights to the child granted pursuant
 106 to Code Section 19-7-3, the petitioner shall cause a copy of the petition for adoption to
 107 be served upon the grandparent family member with the visitation rights or upon such
 108 person's counsel of record."

109

SECTION 3.

110 Said title is further amended by revising Code Section 19-8-15, relating to when objections
 111 may be filed by relatives to petition for adoption, as follows:

112 "19-8-15.

113 (1) As used in this Code section, the term 'family member' shall have the same meaning
 114 as set forth in Code Section 19-7-3.

115 (2) If the child sought to be adopted has no legal father or legal mother living, it shall be
 116 the privilege of any person related by blood to the child to file objections to the petition
 117 for adoption. A grandparent family member with visitation rights to a child granted
 118 pursuant to Code Section 19-7-3 shall have the privilege to file objections to the petition
 119 of adoption if neither parent has any further rights to the child and if the petition for
 120 adoption has been filed by a blood relative of the child. The court, after hearing such
 121 objections, shall determine, in its discretion, whether or not the same constitute a good
 122 reason for denying the petition and the court shall have the authority to grant or continue
 123 such visitation rights of the grandparent to family member of the child in the adoption
 124 order in the event the adoption by the blood relative is approved by the court."

125

SECTION 4.

126 All laws and parts of laws in conflict with this Act are repealed.