

# HOUSE BILL No. 1375

---

## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 31-9-2-48.3; IC 31-14-14-3; IC 31-17.

**Synopsis:** Grandparent and great-grandparent rights. Allows great-grandparents to seek visitation rights with their great-grandchildren in certain circumstances. Provides that a grandparent or great-grandparent may seek visitation with a child if the parent or guardian of the child refuses to allow or restricts visitation by the grandparent or great-grandparent. Establishes factors the court may consider in determining whether granting visitation rights to a grandparent or great-grandparent is in the best interests of the child.

**Effective:** July 1, 2018.

---

---

## Borders

---

---

January 16, 2018, read first time and referred to Committee on Judiciary.

---

---



Second Regular Session of the 120th General Assembly (2018)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2017 Regular Session of the General Assembly.

## HOUSE BILL No. 1375

---

A BILL FOR AN ACT to amend the Indiana Code concerning family law and juvenile law.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 31-9-2-48.3, AS ADDED BY P.L.50-2006,  
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2018]: Sec. 48.3. "Grandparent **or great-grandparent**  
4 visitation", for purposes of IC 31-17-2.2, means visitation rights  
5 granted to a grandparent **or great-grandparent** under IC 31-17-5.

6 SECTION 2. IC 31-14-14-3 IS AMENDED TO READ AS  
7 FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 3. An order granting or  
8 denying visitation rights to a noncustodial parent does not affect  
9 visitation rights granted to a grandparent **or great-grandparent** under  
10 IC 31-17-5-1 or IC 31-17-5-10 (or IC 31-1-11.7-2 before its repeal).

11 SECTION 3. IC 31-17-2.2-1, AS ADDED BY P.L.50-2006,  
12 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
13 JULY 1, 2018]: Sec. 1. (a) A relocating individual must file a notice of  
14 the intent to move with the clerk of the court that:

- 15 (1) issued the custody order or parenting time order; or  
16 (2) if subdivision (1) does not apply, has jurisdiction over the  
17 legal proceedings concerning the custody of or parenting time



1 with a child;  
2 and send a copy of the notice to any nonrelocating individual.

3 (b) Upon motion of a party, the court shall set the matter for a  
4 hearing to review and modify, if appropriate, a custody order, parenting  
5 time order, grandparent **or great-grandparent** visitation order, or  
6 child support order. The court shall take into account the following in  
7 determining whether to modify a custody order, parenting time order,  
8 grandparent **or great-grandparent** visitation order, or child support  
9 order:

10 (1) The distance involved in the proposed change of residence.

11 (2) The hardship and expense involved for the nonrelocating  
12 individual to exercise parenting time or grandparent **or**  
13 **great-grandparent** visitation.

14 (3) The feasibility of preserving the relationship between the  
15 nonrelocating individual and the child through suitable parenting  
16 time and grandparent **or great-grandparent** visitation  
17 arrangements, including consideration of the financial  
18 circumstances of the parties.

19 (4) Whether there is an established pattern of conduct by the  
20 relocating individual, including actions by the relocating  
21 individual to either promote or thwart a nonrelocating individual's  
22 contact with the child.

23 (5) The reasons provided by the:

24 (A) relocating individual for seeking relocation; and

25 (B) nonrelocating parent for opposing the relocation of the  
26 child.

27 (6) Other factors affecting the best interest of the child.

28 (c) The court may award reasonable attorney's fees for a motion  
29 filed under this section in accordance with IC 31-15-10.

30 SECTION 4. IC 31-17-2.2-2, AS ADDED BY P.L.50-2006,  
31 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
32 JULY 1, 2018]: Sec. 2. (a) If a party provides notice of relocation at an  
33 initial hearing to determine custody, the court may consider the factors  
34 set forth in this chapter in the court's initial custody determination.

35 (b) The court may consider a proposed relocation of a child as a  
36 factor in determining whether to modify a custody order, parenting time  
37 order, grandparent **or great-grandparent** visitation order, or child  
38 support order.

39 SECTION 5. IC 31-17-2.2-3, AS AMENDED BY P.L.1-2007,  
40 SECTION 194, IS AMENDED TO READ AS FOLLOWS  
41 [EFFECTIVE JULY 1, 2018]: Sec. 3. (a) Except as provided in section  
42 4 of this chapter, an individual required to file a notice under



1 IC 31-14-13-10 or section 1 of this chapter must:

- 2 (1) send the notice to each nonrelocating individual:  
 3 (A) by registered or certified mail; and  
 4 (B) not later than ninety (90) days before the date that the  
 5 relocating individual intends to move; and  
 6 (2) provide the following information in the notice:  
 7 (A) The intended new residence, including the:  
 8 (i) address; and  
 9 (ii) mailing address of the relocating individual, if the  
 10 mailing address is different than the address under item (i).  
 11 (B) The home telephone number of the new residence.  
 12 (C) Any other applicable telephone number for the relocating  
 13 individual.  
 14 (D) The date that the relocating individual intends to move.  
 15 (E) A brief statement of the specific reasons for the proposed  
 16 relocation of the child.  
 17 (F) A proposal for a revised schedule of parenting time or  
 18 grandparent **or great-grandparent** visitation with the child.  
 19 (G) A statement that a parent must file an objection to the  
 20 relocation of the child with the court not later than sixty (60)  
 21 days after receipt of the notice.  
 22 (H) A statement that a nonrelocating individual may file a  
 23 petition to modify a custody order, parenting time order,  
 24 grandparent **or great-grandparent** visitation order, or child  
 25 support order.

26 (b) Except as provided in section 4 of this chapter, if the relocating  
 27 individual is unable to provide the information required under  
 28 subsection (a)(2) not later than ninety (90) days before the relocating  
 29 individual intends to move, the relocating individual shall provide the  
 30 information in the manner required under subsection (a) not later than  
 31 ten (10) days after the date that the relocating individual obtains the  
 32 information required to be provided under subsection (a)(2). However,  
 33 the relocating individual must provide all the information required  
 34 under subsection (a)(2) not later than thirty (30) days before the  
 35 relocating individual intends to move to the new residence.

36 SECTION 6. IC 31-17-5-1 IS AMENDED TO READ AS  
 37 FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 1. (a) A child's  
 38 grandparent **or great-grandparent** may seek visitation rights if

- 39 ~~(1) the child's parent is deceased;~~  
 40 ~~(2) the marriage of the child's parents has been dissolved in~~  
 41 ~~Indiana; or~~  
 42 ~~(3) subject to subsection (b), the child was born out of wedlock;~~



1 **the parent or guardian of the child refuses to allow or restricts**  
 2 **visitation by the grandparent or great-grandparent.**

3 (b) A court may not grant visitation rights to a paternal grandparent  
 4 **or paternal great-grandparent** of a child who is born out of wedlock  
 5 ~~under subsection (a)(3)~~ if the child's father has not established paternity  
 6 in relation to the child.

7 SECTION 7. IC 31-17-5-2 IS AMENDED TO READ AS  
 8 FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 2. (a) The court may  
 9 grant visitation rights if the court determines that visitation rights are  
 10 in the best interests of the child.

11 (b) In determining the best interests of the child under this section,  
 12 the court may consider **the following:**

13 (1) Whether a grandparent **or great-grandparent** has had or has  
 14 attempted to have meaningful contact with the child.

15 (2) **The wishes and concerns of the parents or guardian of the**  
 16 **child.**

17 (3) **The wishes and concerns of the child, if the court**  
 18 **interviews the child in chambers.**

19 (4) **The needs of the child, including the following**  
 20 **considerations:**

21 (A) **The physical and emotional health of the child.**

22 (B) **The safety of the child.**

23 (C) **The welfare of the child.**

24 (5) **The ability of the grandparent or great-grandparent to**  
 25 **provide love, affection, and contact with the child.**

26 (6) **Any other factor the court considers relevant in**  
 27 **determining the best interests of the child.**

28 (c) The court may interview the child in chambers to assist the court  
 29 in determining the child's perception of whether visitation by a  
 30 grandparent **or great-grandparent** is in the best interests of the child.

31 (d) The court may permit counsel to be present at the interview. If  
 32 counsel is present:

33 (1) a record may be made of the interview; and

34 (2) the interview may be made part of the record for purposes of  
 35 appeal.

36 SECTION 8. IC 31-17-5-3, AS AMENDED BY P.L.16-2017,  
 37 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 38 JULY 1, 2018]: Sec. 3. (a) A proceeding for grandparent's **or**  
 39 **great-grandparent's** visitation must be commenced by the filing of a  
 40 petition entitled, "In Re the visitation of \_\_\_\_\_". The petition  
 41 must:

42 (1) be filed by a grandparent **or great-grandparent** entitled to



- 1 receive visitation rights under this chapter;  
 2 (2) be verified; and  
 3 (3) set forth the following:  
 4 (A) The names and relationship of:  
 5 (i) the petitioning grandparent, ~~or~~ grandparents,  
 6 **great-grandparent, or great-grandparents;**  
 7 (ii) each child with whom visitation is sought; and  
 8 (iii) the ~~custodial~~ parent or guardian of each child.  
 9 (B) The present address of each person named in clause (A).  
 10 (C) The date of birth of each child with whom visitation is  
 11 sought.  
 12 (D) The status under section 1 of this chapter upon which the  
 13 grandparent **or great-grandparent** seeks visitation.  
 14 (E) The relief sought.  
 15 (b) A petition described in subsection (a) must be filed prior to the  
 16 date a decree of adoption is entered.  
 17 SECTION 9. IC 31-17-5-4, AS AMENDED BY P.L.50-2006,  
 18 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 19 JULY 1, 2018]: Sec. 4. A grandparent **or great-grandparent** seeking  
 20 visitation rights shall file a petition requesting reasonable visitation  
 21 rights:  
 22 (1) **except as provided in subdivision (2),** in a circuit, superior,  
 23 or probate court of the county in which the child resides in a case  
 24 described in ~~section 1(a)(1), 1(a)(3);~~ **section 1(a)** or 10 of this  
 25 chapter; or  
 26 (2) in the court having jurisdiction over the dissolution of the  
 27 parents' marriage ~~in a case described in section 1(a)(2) of this~~  
 28 ~~chapter.~~ **if the marriage of the child's parents has been**  
 29 **dissolved in Indiana.**  
 30 SECTION 10. IC 31-17-5-10, AS AMENDED BY P.L.138-2007,  
 31 SECTION 35, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 32 JULY 1, 2018]: Sec. 10. If the marriage of the child's parents has been  
 33 dissolved in another state, the child's maternal or paternal grandparent  
 34 **or the child's great-grandparent** may seek visitation rights if:  
 35 (1) the custody decree entered in the action for dissolution of  
 36 marriage does not bind the grandparent **or great-grandparent**  
 37 under IC 31-21-3-1 (or IC 31-17-3-12 before its repeal); and  
 38 (2) an Indiana court would have jurisdiction under IC 31-21-5-1  
 39 (or IC 31-17-3-3 before its repeal), IC 31-21-5-2, or IC 31-21-5-3  
 40 (or IC 31-17-3-14 before its repeal) to grant visitation rights to the  
 41 grandparent **or great-grandparent** in a modification decree.

