

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2003

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HOUSE BILL 1128

Short Title: Grandparent Visitation.

(Public)

Sponsors: Representatives Culp (By Request); Parmon and McHenry.

Referred to: Judiciary II.

April 10, 2003

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR AN EXPANSION OF RIGHTS UNDER EXISTING  
LAWS RELATING TO GRANDPARENT VISITATION.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 50-13.1(a) reads as rewritten:

"(a) Any parent, relative, or other person, agency, organization or institution claiming the right to custody of a minor child may institute an action or proceeding for the custody of such child, as hereinafter provided. Unless a contrary intent is clear, the word "custody" as it applies to parents of a minor child shall be deemed to include custody or visitation or both."

**SECTION 2.** G.S. 50-13.2(b1) reads as rewritten:

"(b1) An order for custody of a minor child may provide visitation rights for any grandparent of the child as the court, in its discretion, deems appropriate. ~~As used in this subsection, "grandparent" includes a biological grandparent of a child adopted by a stepparent or a relative of the child where a substantial relationship exists between the grandparent and the child.~~ Under no circumstances shall a biological grandparent of a child adopted by adoptive parents, neither of whom is related to the child and where parental rights of both biological parents have been terminated, be entitled to visitation rights."

**SECTION 3.** G.S. 50-13.2A reads as rewritten:

**"§ 50-13.2A. Action for visitation of an adopted grandchild by grandparent.**

(a) ~~A biological grandparent may institute an action or proceeding for visitation rights with a child adopted by a stepparent or a relative of the child where a substantial relationship exists between the grandparent and the child.~~ grandchild under the provisions of this section. Where either or both of the parents of a minor child, residing within this State, is or are deceased, or where existing circumstances require otherwise, a grandparent of the child may apply to the court for visitation by commencing a special proceeding or by writ of habeas corpus to have the child brought before the court. Under no circumstances shall a biological grandparent of a child adopted by adoptive parents,

1 neither of whom is related to the child and where parental rights of both biological  
2 parents have been terminated, be entitled to visitation rights. ~~After notice is given to~~  
3 ~~the parent or any other party having the care, custody, and control of the child in a~~  
4 ~~manner prescribed by the court, a court may award visitation rights if to the grandparent~~  
5 ~~as it determines that visitation is to be in the best interest of the child.~~~~grandchild.~~ ~~An~~  
6 ~~order awarding visitation rights shall contain findings of fact which support the~~  
7 ~~determination by the judge of the best interest of the child.~~ For purposes of this section,  
8 visitation shall not include custody.

9 (b) An order awarding or denying visitation under this section shall contain  
10 findings of fact supporting the award or denial of visitation based on the grandchild's  
11 best interest. In determining the best interest of the child, the court shall consider  
12 awarding or denying visitation to the grandparent under the following circumstances:

13 (1) Where a parent has not allowed a grandparent to visit with or  
14 communicate with the child and the grandparent has made good faith  
15 attempts to visit or communicate with the child.

16 (2) Where the grandparent has had a preexisting relationship with the  
17 child.

18 (3) Where the grandparent has not had a preexisting relationship with the  
19 child because of the parent's refusal to allow the grandparent to  
20 establish a relationship with the child.

21 (4) Any other relevant circumstances the court deems necessary in  
22 determining the best interest of the child.

23 There is a rebuttable presumption that the parent's decision to deny the grandparent  
24 visitation or communication with the child is in the best interest of the child. Procedure,  
25 venue, and jurisdiction ~~shall bear the same~~ as in an action for custody."

26 **SECTION 4.** G.S. 50-13.5(j) is repealed.

27 **SECTION 5.** This act is effective when it becomes law.