

1 HB32
2 116881-2
3 By Representative Shiver
4 RFD: Judiciary
5 First Read: 12-JAN-10
6 PFD: 09/23/2009

1 rights to a minor child if ~~it is in the best interest of the~~
2 ~~minor child~~ and one of the following conditions exist:

3 "(1) ~~When one~~ One or both parents of the child are
4 deceased.

5 "(2) ~~When the~~ The marriage of the parents of the
6 child has been dissolved.

7 "(3) ~~When a~~ A parent of the child has abandoned the
8 minor.

9 "(4) ~~When the~~ The child was born out of wedlock.

10 "(5) ~~When the~~ The child is living with one or both
11 biological parents, who are still married to each other,
12 whether or not there is a broken relationship between either
13 or both parents of the minor and the grandparent and either or
14 both parents have used their parental authority to prohibit a
15 relationship between the child and the grandparent.

16 "(6) A parent of the child has either given up legal
17 custody voluntarily or by court order or has financially
18 abandoned the child.

19 "(c) Any grandparent may intervene in and seek to
20 obtain visitation rights in any action when any court in this
21 state has before it any question concerning the custody of a
22 minor child, a divorce proceeding of the parents or a parent
23 of the minor child, or a termination of the parental rights
24 proceeding of either parent of the minor child, provided the
25 termination of parental rights is for the purpose of adoption
26 pursuant to Sections 26-10A-27, 26-10A-28, or 26-10A-30,
27 dealing with stepparent or relative adoption.

1 "(d) Upon the filing of an original action or upon
2 intervention in an existing proceeding pursuant to subsections
3 (b) and (c), the court shall determine if visitation by the
4 grandparent is in the best interests of the child. Visitation
5 shall not be granted if the visitation would endanger the
6 physical health of the child or impair the emotional
7 development of the child. If the child is living with one or
8 both biological parents, there shall be a rebuttable
9 presumption that the parent or parents with whom the child is
10 living know what is in the best interest of the child. In
11 determining the best interests of the child, the court shall
12 consider the following:

13 "(1) The willingness of the grandparent or
14 grandparents to encourage a close relationship between the
15 child and the parent or parents.

16 "(2) The preference of the child, if the child is
17 determined to be of sufficient maturity to express a
18 preference.

19 "(3) The mental and physical health of the child.

20 "(4) The mental and physical health of the
21 grandparent or grandparents.

22 "(5) Evidence of domestic violence inflicted by one
23 parent upon the other parent or the child. If the court
24 determines that evidence of domestic violence exists,
25 visitation provisions shall be made in a manner protecting the
26 child or children, parents, or grandparents from further
27 abuse.

1 "(6) If a parent has relinquished custody either
2 voluntary voluntarily or by court order or if a parent has
3 abandoned a child financially, whether the grandparent has an
4 established relationship with the child.

5 "~~(6) (7) Other relevant factors in the particular~~
6 ~~circumstances, including the~~ The wishes of any parent who is
7 living.

8 "(8) Other relevant factors in the particular
9 circumstances.

10 "(e) The court shall make specific written findings
11 of fact in support of its rulings. An original action
12 requesting visitation rights shall not be filed by any
13 grandparent more than once during any two-year period ~~and~~
14 ~~shall not be filed during any year in which another custody~~
15 ~~action has been filed concerning the child.~~ After visitation
16 rights have been granted to any grandparent, the legal
17 custodian, guardian, or parent of the child may petition the
18 court for revocation or amendment of the visitation rights,
19 for good cause shown, which the court, in its discretion, may
20 grant or deny. Unless evidence of abuse is alleged or other
21 exceptional circumstances, a petition shall not be filed more
22 than once in any two-year period.

23 "(f) If the court finds that the grandparent or
24 grandparents can bear the cost without unreasonable financial
25 hardship, the court, at the sole expense of the petitioning
26 grandparent or grandparents, may appoint a guardian ad litem
27 for the minor child.

1 "~~(g) Notwithstanding the foregoing, a grandparent~~
2 ~~may not be granted visitation with a grandchild where the~~
3 ~~parent related to the grandparent has either given up legal~~
4 ~~custody voluntarily or by court order or has abandoned the~~
5 ~~child financially unless the grandparent has an established~~
6 ~~relationship with the child and the court finds that~~
7 ~~visitation with the grandparent is in the best interests of~~
8 ~~the child."~~

9 Section 2. This act shall become effective on the
10 first day of the third month following its passage and
11 approval by the Governor, or its otherwise becoming law.

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House of Representatives

Read for the first time and re-
ferred to the House of Representa-
tives committee on Judiciary 12-JAN-10

Read for the second time and placed
on the calendar with 1 substitute
and 21-JAN-10

Read for the third time and passed
as amended 28-JAN-10

Yeas 81, Nays 0, Abstains 0

Greg Pappas
Clerk