

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

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HOUSE BILL 1129

Short Title: Grandparent Visitation.

(Public)

Sponsors: Representatives Decker; J. Crawford, Culp, Culpepper, and Mitchell.

Referred to: Judiciary II.

April 12, 2001

A BILL TO BE ENTITLED

AN ACT CLARIFYING CERTAIN PROVISIONS UNDER THE LAWS RELATING
TO GRANDPARENT VISITATION AND REQUIRING A COURT TO REVIEW
SEVERAL FACTORS PRIOR TO AWARDING GRANDPARENT VISITATION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 50-13.2A reads as rewritten:

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

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.~~ child under the provisions of this section. 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. In awarding grandparent visitation, the court may determine the time, place, and circumstances of visitation. For purposes of this section, visitation shall not include custody. A court may award visitation rights only if it determines that visitation is in the best interest of the child. An order awarding visitation rights shall contain findings of fact ~~which~~ that support the determination by the judge of the best interest of the child. In determining the best interest of the child, the court shall consider the following:

- (1) Whether there is a preexisting relationship between the grandparent and the child, or the willingness of the grandparent to encourage a close relationship between the child and the parent.
- (2) The willingness of the child to develop a relationship with the grandparent, if the court determines that the child is of sufficient maturity to make that decision.
- (3) The reasonableness or lack of reasonableness of the custodial parent in allowing, restricting, or denying visitation to the grandparent in the past.

- 1 (4) The mental and physical health of the child.
- 2 (5) The mental and physical health of the grandparent.
- 3 (6) Whether the circumstances and amount of visitation will substantially
- 4 interfere with the right of the parent to exercise his or her parental
- 5 authority.
- 6 (7) Any other relevant factors the court deems necessary in determining
- 7 the best interest of the child.

8 Where the child's biological parents are married and living together, there is a rebuttable
9 presumption that visitation by a grandparent is not in the best interest of the child if the
10 child's biological parents agree that the grandparent should not be awarded visitation
11 rights. Where the child's biological parents are neither married nor living together, there
12 is no presumption on behalf of any party to the action. Procedure, venue, and
13 jurisdiction shall be the same as in an action for custody."

14 **SECTION 2.** This act is effective when it becomes law.