

Second Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 14-0552.01 Brita Darling x2241

HOUSE BILL 14-1362

HOUSE SPONSORSHIP

Moreno,

SENATE SPONSORSHIP

(None),

House Committees

Public Health Care & Human Services

Senate Committees

A BILL FOR AN ACT

101 CONCERNING GREAT-GRANDPARENT VISITATION WITH
102 GREAT-GRANDCHILDREN.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

The bill amends the statutory provisions concerning visitation rights of grandparents and disputes concerning grandparent visitation to include great-grandparents, without changing the eligibility requirements or process outlined in the existing statutes.

The bill adds the definition for great-grandparent.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 19-1-103, **add** (56.5)
3 as follows:

4 **19-1-103. Definitions.** As used in this title or in the specified
5 portion of this title, unless the context otherwise requires:

6 (56.5) "GREAT-GRANDPARENT", AS USED IN SECTIONS 19-1-117
7 AND 19-1-117.5, MEANS A PERSON WHO IS THE GRANDPARENT OF A
8 CHILD'S FATHER OR MOTHER, WHO IS RELATED TO THE CHILD BY BLOOD, IN
9 WHOLE OR BY HALF, ADOPTION, OR MARRIAGE. "GREAT-GRANDPARENT"
10 DOES NOT INCLUDE THE GRANDPARENT OF A CHILD'S LEGAL FATHER OR
11 MOTHER WHOSE PARENTAL RIGHTS HAVE BEEN TERMINATED IN
12 ACCORDANCE WITH SECTIONS 19-5-101 AND 19-1-104 (1) (d).

13 **SECTION 2.** In Colorado Revised Statutes, 19-1-117, **amend** (1)
14 introductory portion, (1) (c), (2), (3), (4), and (5) as follows:

15 **19-1-117. Visitation rights of grandparents or**
16 **great-grandparents.** (1) Any grandparent OR GREAT-GRANDPARENT of
17 a child may, in the manner set forth in this section, seek a court order
18 granting the grandparent OR GREAT-GRANDPARENT reasonable grandchild
19 OR GREAT-GRANDCHILD visitation rights when there is or has been a child
20 custody case or a case concerning the allocation of parental
21 responsibilities relating to that child. Because cases arise that do not
22 directly deal with child custody or the allocation of parental
23 responsibilities but nonetheless have an impact on the custody of or
24 parental responsibilities with respect to a child, for the purposes of this
25 section, a "case concerning the allocation of parental responsibilities with
26 respect to a child" includes any of the following, whether or not child

1 custody was or parental responsibilities were specifically an issue:

2 (c) That the child's parent, who is the child of the grandparent OR
3 GRANDCHILD OF THE GREAT-GRANDPARENT, has died.

4 (2) A party seeking a grandchild OR GREAT-GRANDCHILD visitation
5 order shall submit, together with his or her motion for visitation, to the
6 district court for the district in which the child resides an affidavit setting
7 forth facts supporting the requested order and shall give notice, together
8 with a copy of his or her affidavit, to the party who has legal custody of
9 the child or to the party with parental responsibilities as determined by a
10 court pursuant to article 10 of title 14, C.R.S. The party with legal custody
11 or parental responsibilities as determined by a court pursuant to article 10
12 of title 14, C.R.S., may file opposing affidavits. If neither party requests
13 a hearing, the court shall enter an order granting grandchild OR
14 GREAT-GRANDCHILD visitation rights to the petitioning grandparent OR
15 GREAT-GRANDPARENT only upon a finding that the visitation is in the best
16 interests of the child. A hearing shall be held if either party so requests or
17 if it appears to the court that it is in the best interests of the child that a
18 hearing be held. At the hearing, parties submitting affidavits shall be
19 allowed an opportunity to be heard. If, at the conclusion of the hearing,
20 the court finds it is in the best interests of the child to grant grandchild OR
21 GREAT-GRANDCHILD visitation rights to the petitioning grandparent OR
22 GREAT-GRANDPARENT, the court shall enter an order granting such rights.

23 (3) ~~No~~ A grandparent OR GREAT-GRANDPARENT ~~may~~ SHALL NOT
24 file an affidavit seeking an order granting grandchild OR
25 GREAT-GRANDCHILD visitation rights more than once every two years
26 absent a showing of good cause. If the court finds there is good cause to
27 file more than one such affidavit, it shall allow such additional affidavit

1 to be filed and shall consider it. The court may order reasonable attorney
2 fees to the prevailing party. The court may not make any order restricting
3 the movement of the child if such restriction is solely for the purpose of
4 allowing the grandparent OR GREAT-GRANDPARENT the opportunity to
5 exercise his grandchild OR GREAT-GRANDCHILD visitation rights.

6 (4) The court may make an order modifying or terminating
7 grandchild OR GREAT-GRANDCHILD visitation rights whenever such order
8 would serve the best interests of the child.

9 (5) Any order granting or denying parenting time rights to the
10 parent of a child shall not affect visitation rights granted to a grandparent
11 OR GREAT-GRANDPARENT pursuant to this section.

12 **SECTION 3.** In Colorado Revised Statutes, 19-1-117.5, **amend**
13 (1) introductory portion, (1) (b), (2) (d), (2) (d) (III), and (2) (f) as
14 follows:

15 **19-1-117.5. Disputes concerning grandparent or**
16 **great-grandparent visitation.** (1) Upon a verified motion by a
17 grandparent OR GREAT-GRANDPARENT who has been granted visitation or
18 upon the court's own motion alleging that the person with legal custody
19 or parental responsibilities of the child as determined by a court pursuant
20 to article 10 of title 14, C.R.S., with whom visitation has been granted is
21 not complying with a grandparent OR GREAT-GRANDPARENT visitation
22 order or schedule, the court shall determine from the verified motion, and
23 response to the motion, if any, whether there has been or is likely to be a
24 substantial and continuing noncompliance with the grandparent OR
25 GREAT-GRANDPARENT visitation order or schedule and either:

26 (b) Set the matter for hearing with notice to the grandparent OR
27 GREAT-GRANDPARENT and the person with legal custody or parental

1 responsibilities of the child as determined by the court of the time and
2 place of the hearing; or

3 (2) After the hearing, if a court finds that the person with legal
4 custody or parental responsibilities of the child as determined by the court
5 has not complied with the visitation order or schedule and has violated the
6 court order, the court, in the best interests of the child, may issue orders
7 which may include but need not be limited to:

8 (d) Requiring that makeup visitation be provided for the aggrieved
9 grandparent or GREAT-GRANDPARENT AND child under the following
10 conditions:

11 (III) That such visitation is in the manner chosen by the aggrieved
12 grandparent OR GREAT-GRANDPARENT if it is in the best interests of the
13 child;

14 (f) Awarding to the aggrieved party, where appropriate, actual
15 expenses, including attorney fees, court costs, and expenses incurred by
16 a grandparent OR GREAT-GRANDPARENT because of the other person's
17 failure to provide or exercise court-ordered visitation. Nothing in this
18 section shall preclude a party's right to a separate and independent legal
19 action in tort.

20 **SECTION 4.** In Colorado Revised Statutes, 14-10-129, **amend**
21 (1) (b) (I) as follows:

22 **14-10-129. Modification of parenting time.** (1) (b) (I) The court
23 shall not restrict a parent's parenting time rights unless it finds that the
24 parenting time would endanger the child's physical health or significantly
25 impair the child's emotional development. In addition to a finding that
26 parenting time would endanger the child's physical health or significantly
27 impair the child's emotional development, in any order imposing or

1 continuing a parenting time restriction the court shall enumerate the
2 specific factual findings supporting the restriction. Nothing in this section
3 shall be construed to affect grandparent OR GREAT-GRANDPARENT
4 visitation granted pursuant to section 19-1-117, C.R.S.

5 **SECTION 5.** In Colorado Revised Statutes, **amend** 14-10-131.8
6 as follows:

7 **14-10-131.8. Construction of 1999 revisions.** The enactment of
8 the 1999 revisions to this article does not constitute substantially changed
9 circumstances for the purposes of modifying decrees involving child
10 custody, parenting time, or grandparent visitation. Any action to modify
11 any decree involving child custody, parenting time, grandparent OR
12 GREAT-GRANDPARENT visitation, or a parenting plan shall be governed by
13 the provisions of this article.

14 **SECTION 6.** In Colorado Revised Statutes, 14-13-102, **amend**
15 (3) and (4) as follows:

16 **14-13-102. Definitions.** As used in this article, unless the context
17 otherwise requires:

18 (3) "Child-custody determination" means a judgment, decree, or
19 other order of a court providing for the legal custody or physical custody
20 of a child or allocating parental responsibilities with respect to a child or
21 providing for visitation, parenting time, or grandparent OR
22 GREAT-GRANDPARENT visitation with respect to a child. The term includes
23 a permanent, temporary, initial, and modification order. The term does not
24 include an order relating to child support or other monetary obligation of
25 an individual.

26 (4) "Child-custody proceeding" means a proceeding in which legal
27 custody or physical custody with respect to a child or the allocation of

1 parental responsibilities with respect to a child or visitation, parenting
2 time, or grandparent OR GREAT-GRANDPARENT visitation with respect to
3 a child is an issue. The term includes a proceeding for divorce, dissolution
4 of marriage, legal separation, neglect, abuse, dependency, guardianship,
5 paternity, termination of parental rights, and protection from domestic
6 violence and domestic abuse, in which the issue may appear. The term
7 does not include a proceeding involving juvenile delinquency, contractual
8 emancipation, or enforcement under part 3 of this article.

9 **SECTION 7. Act subject to petition - effective date.** This act
10 takes effect September 1, 2014; except that, if a referendum petition is
11 filed pursuant to section 1 (3) of article V of the state constitution against
12 this act or an item, section, or part of this act within the ninety-day period
13 after final adjournment of the general assembly, then the act, item,
14 section, or part will not take effect unless approved by the people at the
15 general election to be held in November 2014 and, in such case, will take
16 effect on the date of the official declaration of the vote thereon by the
17 governor.