
SENATE BILL 5005

State of Washington

64th Legislature

2015 Regular Session

By Senator Angel

Prefiled 12/10/14.

1 AN ACT Relating to grandparent visitation rights; amending RCW
2 26.09.240; and creating a new section.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 NEW SECTION. **Sec. 1.** The legislature finds that grandparents
5 are an important and vital part of a healthy and socially well-
6 adjusted child's life. The legislature finds that grandparents add
7 immeasurable value to a child's upbringing and that the relationship
8 between grandparent and grandchild is a special bond which should be
9 honored and respected by the state, parents, and children. Although
10 rare circumstances may exist where it is inadvisable for a
11 grandparent to enjoy regular and frequent contact with a grandchild,
12 in the normal course of events in a child's life, courts and families
13 alike should strive to ensure that such contact occurs.

14 **Sec. 2.** RCW 26.09.240 and 1996 c 177 s 1 are each amended to
15 read as follows:

16 (1) A (~~person other than a parent~~) grandparent may petition the
17 court for visitation with a (~~child at any time or may intervene in a~~
18 ~~pending dissolution, legal separation, or modification of parenting~~
19 ~~plan proceeding. A person other than a parent may not petition for~~
20 ~~visitation under this section unless the child's parent or parents~~

1 ~~have commenced an action under this chapter~~) grandchild. For the
2 purposes of this section, "grandparent" means the blood relative of a
3 son or daughter who is also the parent of a grandchild.

4 (2) A petition for visitation with a (~~child~~) grandchild by a
5 (~~person other than a parent~~) grandparent must be filed in the
6 county in which the child resides.

7 (3) A petition for visitation (~~or a motion to intervene pursuant~~
8 ~~to this section~~) shall be dismissed unless the grandparent
9 petitioner or intervenor can demonstrate by clear and convincing
10 evidence that a significant relationship exists with the child with
11 whom visitation is sought. If the petition or motion is dismissed for
12 failure to establish the existence of a significant relationship, the
13 grandparent petitioner (~~or intervenor~~) shall be ordered to pay
14 reasonable attorneys' fees and costs to the parent, parents, other
15 custodian, or representative of the child who responds to this
16 petition or motion.

17 (4) The court may order visitation between the grandparent
18 petitioner (~~or intervenor~~) and the (~~child~~) grandchild between
19 whom a significant relationship exists upon a finding supported by
20 the evidence that the denial of visitation (~~is in the child's best~~
21 ~~interests~~) would result in harm to the child. The court shall grant
22 special weight to a parent's decision and the court shall presume
23 that the decision in the child's best interests.

24 (5)(a) Denial of visitation with a grandparent shall be presumed
25 to (~~be in the child's best interests~~) result in harm to a child
26 when a significant relationship has been shown to exist. This
27 presumption may be rebutted by a preponderance of evidence showing
28 that visitation would endanger the child's physical, mental, or
29 emotional health.

30 (b) If the court finds that (~~reasonable~~) denial of visitation
31 by a grandparent would (~~be in the child's best interest except for~~
32 ~~hostilities that exist between the grandparent and one or both of the~~
33 ~~parents or person with whom the child lives~~) result in harm to the
34 child, the court may set the matter for mediation under RCW
35 26.09.015.

36 (6) The court may consider the following factors when making a
37 determination of (~~the child's best interests~~) whether harm to the
38 child would occur:

39 (a) The strength of the relationship between the child and the
40 (~~petitioner~~) grandparent;

1 (b) The relationship between each of the child's parents or the
2 person with whom the child is residing and the ((petitioner))
3 grandparent;

4 (c) The nature and reason for either parent's objection to
5 granting the ((petitioner)) grandparent visitation;

6 (d) The effect that granting visitation will have on the
7 relationship between the child and the child's parents or the person
8 with whom the child is residing;

9 (e) The residential time sharing arrangements between the
10 parents;

11 (f) The good faith of the ((petitioner)) grandparent;

12 (g) Any criminal history or history of physical, emotional, or
13 sexual abuse or neglect by the ((petitioner)) grandparent; and

14 (h) Any other factor relevant to the child's best interest.

15 (7) The restrictions of RCW 26.09.191 that apply to parents shall
16 be applied to a petitioner ((or intervenor)) who is not a parent. The
17 nature and extent of visitation, subject to these restrictions, is in
18 the discretion of the court.

19 ((The court may order an investigation and report concerning
20 the proposed visitation or may appoint a guardian ad litem as
21 provided in RCW 26.09.220.

22 (+9)) Visitation granted pursuant to this section shall be
23 incorporated into the parenting plan for the child.

24 ((+10)) (9) The court may modify or terminate visitation rights
25 granted pursuant to this section in any subsequent modification
26 action upon a showing that the denial of visitation ((is)) no longer
27 ((in the best interest of)) poses harm to the child.

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