

CHAPTER 2022-217

House Bill No. 1119

An act relating to grandparent visitation rights; amending s. 752.011, F.S.; creating a presumption for maternal or paternal grandparent or step-grandparent visitation of a child under certain circumstances; providing a burden for overcoming such presumption; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsections (2) through (11) of section 752.011, Florida Statutes, are renumbered as subsections (3) through (12), respectively, present subsections (4) and (5) are amended, and a new subsection (2) is added to that section, to read:

752.011 Petition for grandparent visitation with a minor child.—A grandparent of a minor child whose parents are deceased, missing, or in a persistent vegetative state, or whose one parent is deceased, missing, or in a persistent vegetative state and whose other parent has been convicted of a felony or an offense of violence evincing behavior that poses a substantial threat of harm to the minor child’s health or welfare, may petition the court for court-ordered visitation with the grandchild under this section.

(2) Notwithstanding subsection (1), if the court finds that one parent of a child has been held criminally liable for the death of the other parent of the child or civilly liable for an intentional tort causing the death of the other parent of the child, there is a presumption for granting reasonable visitation with the petitioning grandparent or stepgrandparent if he or she is the parent of the child’s deceased parent. This presumption may only be overcome if the court finds that granting such visitation is not in the best interests of the child.

~~(5)(4)~~ In assessing the best ~~interests~~ interest of the child under subsection ~~(4)(3)~~, the court shall consider the totality of the circumstances affecting the mental and emotional well-being of the minor child, including:

(a) The love, affection, and other emotional ties existing between the minor child and the grandparent, including those resulting from the relationship that had been previously allowed by the child’s parent.

(b) The length and quality of the previous relationship between the minor child and the grandparent, including the extent to which the grandparent was involved in providing regular care and support for the child.

(c) Whether the grandparent established ongoing personal contact with the minor child before the death of the parent, before the onset of the parent’s persistent vegetative state, or before the parent was missing.

(d) The reasons cited by the respondent parent in ending contact or visitation between the minor child and the grandparent.

(e) Whether there has been significant and demonstrable mental or emotional harm to the minor child as a result of the disruption in the family unit, whether the child derived support and stability from the grandparent, and whether the continuation of such support and stability is likely to prevent further harm.

(f) The existence or threat to the minor child of mental injury as defined in s. 39.01.

(g) The present mental, physical, and emotional health of the minor child.

(h) The present mental, physical, and emotional health of the grandparent.

(i) The recommendations of the minor child’s guardian ad litem, if one is appointed.

(j) The result of any psychological evaluation of the minor child.

(k) The preference of the minor child if the child is determined to be of sufficient maturity to express a preference.

(l) A written testamentary statement by the deceased parent regarding visitation with the grandparent. The absence of a testamentary statement is not deemed to provide evidence that the deceased or missing parent or parent in a persistent vegetative state would have objected to the requested visitation.

(m) Other factors that the court considers necessary to making its determination.

~~(6)(5)~~ In assessing material harm to the parent-child relationship under subsection ~~(4)(3)~~, the court shall consider the totality of the circumstances affecting the parent-child relationship, including:

(a) Whether there have been previous disputes between the grandparent and the parent over childrearing or other matters related to the care and upbringing of the minor child.

(b) Whether visitation would materially interfere with or compromise parental authority.

(c) Whether visitation can be arranged in a manner that does not materially detract from the parent-child relationship, including the quantity of time available for enjoyment of the parent-child relationship and any other consideration related to disruption of the schedule and routine of the parent and the minor child.

(d) Whether visitation is being sought for the primary purpose of continuing or establishing a relationship with the minor child with the intent that the child benefit from the relationship.

(e) Whether the requested visitation would expose the minor child to conduct, moral standards, experiences, or other factors that are inconsistent with influences provided by the parent.

(f) The nature of the relationship between the child’s parent and the grandparent.

(g) The reasons cited by the parent in ending contact or visitation between the minor child and the grandparent which was previously allowed by the parent.

(h) The psychological toll of visitation disputes on the minor child.

(i) Other factors that the court considers necessary in making its determination.

Section 2. This act shall take effect July 1, 2022.

Approved by the Governor June 24, 2022.

Filed in Office Secretary of State June 24, 2022.