

1 AN ACT relating to grandparent visitation.

2 WHEREAS, studies have shown that relationships between adolescents and
3 grandparents contribute to the adolescents' well-being; and

4 WHEREAS, studies have also shown that grandparents are instrumental in times of
5 family adversity and help the whole family to survive a crisis; and

6 WHEREAS, emotionally close ties between grandparents and grandchildren
7 provide a wide variety of benefits to both grandparent and grandchild; and

8 WHEREAS, the opioid epidemic and rise in drug abuse has led to an increase in the
9 number of families that are pulled apart; and

10 WHEREAS, there are over 70,000 children in Kentucky that are no longer living
11 with their parents, including over 8,000 children in foster care and over 30,000 homeless
12 children; and

13 WHEREAS, the presence of healthy, supportive grandparents has been shown to be
14 a factor in distinguishing well-functioning children of drug abusers; and

15 WHEREAS, there is a rapidly increasing number of grandparents who serve as the
16 primary caregivers for children;

17 NOW, THEREFORE,

18 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

19 ➔Section 1. KRS 405.021 is amended to read as follows:

20 (1) (a) The Circuit Court may grant reasonable visitation rights to either the paternal
21 or maternal grandparents of a child and issue any necessary orders to enforce
22 the decree if it determines that it is in the best interest of the child to do so.
23 Once a grandparent has been granted visitation rights under this subsection,
24 those rights shall not be adversely affected by the termination of parental
25 rights belonging to the grandparent's son or daughter, who is the father or
26 mother of the child visited by the grandparent, unless the Circuit Court
27 determines that it is in the best interest of the child to do so.

1 **(b) If the parent of the child who is the son or daughter of the grandparent is**
2 **deceased, there shall be a rebuttable presumption that visitation with the**
3 **grandparent is in the best interest of the child if the grandparent can prove**
4 **a pre-existing significant and viable relationship with the child.**

5 **(c) In order to prove a significant and viable relationship under paragraph (b)**
6 **of this subsection, the grandparent shall prove by a preponderance of the**
7 **evidence that:**

- 8 **1. The child resided with the grandparent for at least six (6) consecutive**
9 **months with or without the current custodian present;**
- 10 **2. The grandparent was the caregiver of the child on a regular basis for**
11 **at least six (6) consecutive months;**
- 12 **3. The grandparent had frequent or regular contact with the child for at**
13 **least twelve (12) consecutive months; or**
- 14 **4. There exist any other facts that establish that the loss of the**
15 **relationship between the grandparent and the child is likely to harm**
16 **the child.**

- 17 (2) The action shall be brought in Circuit Court in the county in which the child resides.
18 (3) The Circuit Court may grant noncustodial parental visitation rights to the
19 grandparent of a child if the parent of the child who is the son or daughter of the
20 grandparent is deceased and the grandparent has assumed the financial obligation of
21 child support owed by the deceased parent, unless the court determines that the
22 visitation is not in the best interest of the child. If visitation is not granted, the
23 grandparent shall not be responsible for child support.

24 ➔Section 2. KRS 620.090 is amended to read as follows:

- 25 (1) If, after completion of the temporary removal hearing, the court finds there are
26 reasonable grounds to believe the child is dependent, neglected or abused, the court
27 shall issue an order for temporary removal and shall grant temporary custody to the

- 1 cabinet or other appropriate person or agency. Preference shall be given to available
2 and qualified relatives of the child considering the wishes of the parent or other
3 person exercising custodial control or supervision, if known. The order shall state
4 the specific reasons for removal and show that alternative less restrictive
5 placements and services have been considered. The court may recommend a
6 placement for the child.
- 7 (2) In placing a child under an order of temporary custody, the cabinet or its designee
8 shall use the least restrictive appropriate placement available. Preference shall be
9 given to available and qualified relatives of the child considering the wishes of the
10 parent or other person exercising custodial control or supervision, if known. The
11 child may also be placed in a facility or program operated or approved by the
12 cabinet, including a foster home, or any other appropriate available placement.
13 However, under no circumstance shall the child be placed in a home, facility, or
14 other shelter with a child who has been committed to the Department of Juvenile
15 Justice for commission of a sex crime as that term is defined in KRS 17.500, unless
16 the child committed for the commission of a sex crime is kept segregated from other
17 children in the home, facility, or other shelter that have not been committed for the
18 commission of a sex crime.
- 19 (3) If the court finds there are not reasonable grounds to believe the child is dependent,
20 neglected or abused, or if no action is taken within seventy-two (72) hours, the
21 emergency custody order shall be dissolved automatically and the cabinet or its
22 designee shall return the child to the parent or other person exercising custodial
23 control or supervision. A request for a continuance of the hearing by the parent or
24 other person exercising custodial control or supervision shall constitute action
25 precluding automatic dissolution of the emergency custody order.
- 26 (4) When the court issues a temporary order for the custody of a child, the court may
27 order that, within two (2) weeks, arrangements be made for the child to receive a

1 thorough medical, visual, and dental examination by a professional authorized by
2 the Kentucky Revised Statutes to conduct such examinations. The costs of the
3 examination shall be paid by the cabinet.

4 (5) The child shall remain in temporary custody with the cabinet for a period of time
5 not to exceed forty-five (45) days from the date of the removal from his home. The
6 court shall conduct the adjudicatory hearing and shall make a final disposition
7 within forty-five (45) days of the removal of the child. The court may extend such
8 time after making written findings establishing the need for the extension and after
9 finding that the extension is in the child's best interest.

10 (6) If custody is granted to a grandparent of the child pursuant to this section, the
11 court shall consider granting reasonable visitation rights to any other
12 grandparent of the child if the court determines the grandparent has a significant
13 and viable relationship with the child as established in subsection (1)(c) of
14 Section 1 of this Act.