

1 AN ACT relating to grandparent visitation.

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

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

4 (1) (a) The Circuit Court may grant reasonable visitation rights to either the paternal
5 or maternal grandparents of a child and issue any necessary orders to enforce
6 the decree if **the court finds by clear and convincing evidence that:**

7 **1. There are compelling factors to overcome the presumption that a fit**
8 **parent acts in the best interests of the child; and**

9 **2. Visitation with the grandparent** ~~it Determines that it~~ is in the best
10 **interests**~~interest~~ of the child ~~to do so~~.

11 **(b)** Once a grandparent has been granted visitation rights under this subsection,
12 those rights shall not be adversely affected by the termination of parental
13 rights belonging to the grandparent's son or daughter, who is the father or
14 mother of the child visited by the grandparent, unless the Circuit Court
15 determines that it is in the best **interests**~~interest~~ of the child to do so.

16 **(2) In determining whether grandparent visitation is in the best interests of the child,**
17 **the court may consider the:**

18 **(a) Nature and stability of the relationship between the child and the**
19 **grandparent seeking visitation, including the petitioner's capacity to give**
20 **the child love, affection, emotional support, and guidance;**

21 **(b) Amount of time the grandparent and child spent together;**

22 **(c) Potential detriments and benefits to the child from granting visitation,**
23 **including whether the loss of the relationship between the petitioner and**
24 **child is likely to harm the child or cause emotional distress to the child;**

25 **(d) Effect granting visitation would have on the child's relationship with the**
26 **parents;**

27 **(e) Physical and emotional health of all the adults involved, parents and**

- 1 grandparents alike;
- 2 (f) Stability of the child's living and schooling arrangements;
- 3 (g) Wishes and preferences of the child;
- 4 (h) Motivation of the adults participating in the grandparent visitation
- 5 proceedings; and
- 6 (i) Special circumstance when the parent of the child who is the son or
- 7 daughter of the grandparent is deceased or the marriage of the parent has
- 8 been dissolved.

9 ~~{(b) If the parent of the child who is the son or daughter of the grandparent is~~
 10 ~~deceased, there shall be a rebuttable presumption that visitation with the~~
 11 ~~grandparent is in the best interest of the child if the grandparent can prove a~~
 12 ~~pre-existing significant and viable relationship with the child.~~

13 ~~(c) In order to prove a significant and viable relationship under paragraph (b) of~~
 14 ~~this subsection, the grandparent shall prove by a preponderance of the~~
 15 ~~evidence that:~~

- 16 1. ~~The child resided with the grandparent for at least six (6) consecutive~~
 17 ~~months with or without the current custodian present;~~
- 18 2. ~~The grandparent was the caregiver of the child on a regular basis for at~~
 19 ~~least six (6) consecutive months;~~
- 20 3. ~~The grandparent had frequent or regular contact with the child for at~~
 21 ~~least twelve (12) consecutive months; or~~
- 22 4. ~~There exist any other facts that establish that the loss of the relationship~~
 23 ~~between the grandparent and the child is likely to harm the child.]~~

24 ~~(3){(2)}~~ The action under this section shall be brought in the Circuit Court ~~off[in]~~ the
 25 county in which the child resides.

26 ~~(4){(3)}~~ The Circuit Court may grant noncustodial parental visitation rights to the
 27 grandparent of a child if the parent of the child who is the son or daughter of the

1 grandparent is deceased and the grandparent has assumed the financial obligation of
 2 child support owed by the deceased parent, unless the court determines that the
 3 visitation is not in the best ~~interests~~[interest] of the child under subsections (1) and
 4 (2) of this section. If visitation is not granted, the grandparent shall not be
 5 responsible for child support.

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

7 (1) If, after completion of the temporary removal hearing, the court finds there are
 8 reasonable grounds to believe the child is dependent, neglected or abused, the court
 9 shall:

10 (a) Issue an order for temporary removal and shall grant temporary custody to the
 11 cabinet or other appropriate person or agency. Preference shall be given to
 12 available and qualified relatives of the child considering the wishes of the
 13 parent or other person exercising custodial control or supervision, if known.
 14 The order shall state the specific reasons for removal and show that alternative
 15 less restrictive placements and services have been considered. The court may
 16 recommend a placement for the child;

17 (b) Inquire as to an existing child support order; and

18 (c) If there is no existing order, or if the order is to be amended, the court shall:

19 1. Make specific findings, either written or on the record, as to:

20 a. The child support obligation in the best interest of the child;

21 b. The action to be taken by the payee, payor, or any other party by
 22 making an application for services to the child support office who
 23 shall take all appropriate action; or

24 c. Setting a hearing as soon as practicable; and

25 2. Require proper service before establishing a new child support order.

26 (2) In placing a child under an order of temporary custody, the cabinet or its designee
 27 shall use the least restrictive appropriate placement available. Preference shall be

1 given to available and qualified relatives of the child considering the wishes of the
2 parent or other person exercising custodial control or supervision, if known. The
3 child may also be placed in a facility or program operated or approved by the
4 cabinet, including a foster home, or any other appropriate available placement.
5 However, under no circumstance shall the child be placed in a home, facility, or
6 other shelter with a child who has been committed to the Department of Juvenile
7 Justice for commission of a sex crime as that term is defined in KRS 17.500, unless
8 the child committed for the commission of a sex crime is kept segregated from
9 other children in the home, facility, or other shelter that have not been committed
10 for the commission of a sex crime.

11 (3) If the court finds there are not reasonable grounds to believe the child is dependent,
12 neglected or abused, or if no action is taken within seventy-two (72) hours, the
13 emergency custody order shall be dissolved automatically and the cabinet or its
14 designee shall return the child to the parent or other person exercising custodial
15 control or supervision. A request for a continuance of the hearing by the parent or
16 other person exercising custodial control or supervision shall constitute action
17 precluding automatic dissolution of the emergency custody order.

18 (4) When the court issues a temporary order for the custody of a child, the court may
19 order that, within two (2) weeks, arrangements be made for the child to receive a
20 thorough medical, visual, and dental examination by a professional authorized by
21 the Kentucky Revised Statutes to conduct such examinations. The costs of the
22 examination shall be paid by the cabinet.

23 (5) The child shall remain in temporary custody with the cabinet for a period of time
24 not to exceed forty-five (45) days from the date of the removal from his home. The
25 court shall conduct the adjudicatory hearing and shall make a final disposition
26 within forty-five (45) days of the removal of the child. The court may extend such
27 time after making written findings establishing the need for the extension and after

- 1 finding that the extension is in the child's best interest.
- 2 (6) If custody is granted to a grandparent of the child pursuant to this section, the court
- 3 shall consider granting reasonable visitation rights to any other grandparent of the
- 4 child if the court determines visitation with the grandparent is in the best interests
- 5 of~~[has a significant and viable relationship with]~~ the child as established in KRS
- 6 405.021~~[(1)(e)]~~.