

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 it determines that it is in the best interests~~[interest]~~ of the child to
7 do so.

8 **(b) In determining the best interests of the child under this subsection, the court**
9 **shall consider all relevant factors including:**

10 **1. Maintaining an existing relationship between the grandparent and the**
11 **child;**

12 **2. The child's expressed preferences if the child is of sufficient age and**
13 **maturity, with due consideration given to the influence a parent or de**
14 **facto custodian may have over the child's wishes;**

15 **3. The mental and physical health of all individuals involved;**

16 **4. The motivation and intent of the adults participating in the**
17 **proceeding; and**

18 **5. Any documented history of abuse, neglect, or domestic violence and**
19 **abuse as defined in KRS 403.720.**

20 **(c)** Once a grandparent has been granted visitation rights under this subsection,
21 those rights shall not be adversely affected by the termination of parental
22 rights belonging to the grandparent's son or daughter, who is the father or
23 mother of the child visited by the grandparent, unless the Circuit Court
24 determines that it is in the best interests~~[interest]~~ of the child to do so.

25 **(2) (a)**~~(b)~~ If the parent of the child who is the son or daughter of the grandparent is
26 deceased, there shall be a rebuttable presumption that visitation with the
27 grandparent is in the best interests~~[interest]~~ of the child if the grandparent can

1 prove a pre-existing significant and viable relationship with the child.

2 ~~(b)(e)}~~ In order to prove a significant and viable relationship under paragraph
3 ~~(a)(b)}~~ of this subsection, the grandparent shall prove by a preponderance of
4 the evidence that:

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

13 ~~(2) The action shall be brought in Circuit Court in the county in which the child~~
14 ~~resides.}~~

15 (3) The Circuit Court may grant noncustodial parental visitation rights to the
16 grandparent of a child if the parent of the child who is the son or daughter of the
17 grandparent is deceased and the grandparent has assumed the financial obligation of
18 child support owed by the deceased parent, unless the court determines that the
19 visitation is not in the best interests~~[interest]~~ of the child. If visitation is not granted,
20 the grandparent shall not be responsible for child support.

21 **(4) Any action brought under this section shall be filed in the Circuit Court of the**
22 **county in which the child resides.**

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

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

27 (a) 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
2 available and qualified relatives of the child considering the wishes of the
3 parent or other person exercising custodial control or supervision, if known.
4 The order shall state the specific reasons for removal and show that alternative
5 less restrictive placements and services have been considered. The court may
6 recommend a placement for the child;

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

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

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

10 a. The child support obligation in the best interests~~[interest]~~ of the
11 child;

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

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

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

17 (2) In placing a child under an order of temporary custody, the cabinet or its designee
18 shall use the least restrictive appropriate placement available. Preference shall be
19 given to available and qualified relatives of the child considering the wishes of the
20 parent or other person exercising custodial control or supervision, if known. The
21 child may also be placed in a facility or program operated or approved by the
22 cabinet, including a foster home, or any other appropriate available placement.
23 However, under no circumstance shall the child be placed in a home, facility, or
24 other shelter with a child who has been committed to the Department of Juvenile
25 Justice for commission of a sex crime as that term is defined in KRS 17.500, unless
26 the child committed for the commission of a sex crime is kept segregated from
27 other children in the home, facility, or other shelter that have not been committed

1 for the commission of a sex crime.

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

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

14 (5) The child shall remain in temporary custody with the cabinet for a period of time
15 not to exceed forty-five (45) days from the date of the removal from his home. The
16 court shall conduct the adjudicatory hearing and shall make a final disposition
17 within forty-five (45) days of the removal of the child. The court may extend such
18 time after making written findings establishing the need for the extension and after
19 finding that the extension is in the child's best interests~~[interest]~~.

20 (6) If custody is granted to a grandparent of the child pursuant to this section, the court
21 shall consider granting reasonable visitation rights to any other grandparent of the
22 child in accordance with Section 1 of this Act~~[if the court determines the~~
23 ~~grandparent has a significant and viable relationship with the child as established in~~
24 ~~KRS 405.021(1)(c)]~~.