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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/08/2015	.	
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Appropriations Subcommittee on Criminal and Civil Justice (Soto)
recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 752.001, Florida Statutes, is amended to
read:

752.001 Definitions.—As used in ~~For purposes of~~ this
chapter, the term:

(1) "Grandparent" shall include great-grandparent.

(2) "Missing" means having whereabouts which are unknown



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11 for a period of at least 90 days and not being able to be
12 located after a diligent search and inquiry. Such search and
13 inquiry for a missing person must include, at a minimum,
14 inquiries of all relatives of the person who can reasonably be
15 identified by the petitioner, inquiries of hospitals in the
16 areas where the person last resided, inquiries of the person's
17 recent employers, inquiries of state and federal agencies likely
18 to have information about the person, inquiries of appropriate
19 utility and postal providers, a thorough search of at least one
20 electronic database specifically designed for locating persons,
21 and inquiries of appropriate law enforcement agencies.

22 (3) "Persistent vegetative state" has the same meaning as
23 provided in s. 765.101(12).

24 Section 2. Section 752.01, Florida Statutes, is repealed.

25 Section 3. Section 752.011, Florida Statutes, is created to
26 read:

27 752.011 Petition for grandparent visitation with a minor
28 child.—A grandparent of a minor child whose parents are
29 deceased, missing, or in a persistent vegetative state, or whose
30 one parent is deceased, missing, or in a persistent vegetative
31 state and whose other parent has been convicted of a felony or
32 an offense of violence evincing behavior that poses a
33 substantial threat of harm to the minor child's health or
34 welfare, may petition the court for court-ordered visitation
35 with the grandchild under this section.

36 (1) Upon the filing of a petition by a grandparent for
37 visitation, the court shall hold a preliminary hearing to
38 determine whether the petitioner has made a prima facie showing
39 of parental unfitness or significant harm to the child. Absent



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40 such a showing, the court shall dismiss the petition and may
41 award reasonable attorney fees and costs to be paid by the
42 petitioner to the respondent.

43 (2) If the court finds that there is prima facie evidence
44 that a parent is unfit or that there is significant harm to the
45 child, the court may appoint a guardian ad litem and shall refer
46 the matter to family mediation as provided in s. 752.015. If
47 family mediation does not successfully resolve the issue of
48 grandparent visitation, the court shall proceed with a final
49 hearing.

50 (3) After conducting a final hearing on the issue of
51 visitation, the court may award reasonable visitation to the
52 grandparent with respect to the minor child if the court finds
53 by clear and convincing evidence that a parent is unfit or that
54 there is significant harm to the child, that visitation is in
55 the best interest of the minor child, and that the visitation
56 will not materially harm the parent-child relationship.

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

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

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



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

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

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

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

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

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

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

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

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

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



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98 visitation.

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

101 (5) In assessing material harm to the parent-child
102 relationship under subsection (3), the court shall consider the
103 totality of the circumstances affecting the parent-child
104 relationship, including:

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

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

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

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

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

123 (f) The nature of the relationship between the child's
124 parent and the grandparent.

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



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127 previously allowed by the parent.

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

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

132 (6) Part II of chapter 61 applies to actions brought under
133 this section.

134 (7) If actions under this section and s. 61.13 are pending
135 concurrently, the courts are strongly encouraged to consolidate
136 the actions in order to minimize the burden of litigation on the
137 minor child and the other parties.

138 (8) An order for grandparent visitation may be modified
139 upon a showing by the person petitioning for modification that a
140 substantial change in circumstances has occurred and that
141 modification of visitation is in the best interest of the minor
142 child.

143 (9) An original action requesting visitation under this
144 section may be filed by a grandparent only once during any 2-
145 year period, except on good cause shown that the minor child is
146 suffering, or may suffer, significant and demonstrable mental or
147 emotional harm caused by a parental decision to deny visitation
148 between a minor child and the grandparent, which was not known
149 to the grandparent at the time of filing an earlier action.

150 (10) This section does not provide for grandparent
151 visitation with a minor child placed for adoption under chapter
152 63 except as provided in s. 752.071 with respect to adoption by
153 a stepparent or close relative.

154 (11) Venue shall be in the county where the minor child
155 primarily resides, unless venue is otherwise governed by chapter



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156 39, chapter 61, or chapter 63.

157 Section 4. Section 752.07, Florida Statutes, is repealed.

158 Section 5. Section 752.071, Florida Statutes, is created to
159 read:

160 752.071 Effect of adoption by stepparent or close
161 relative.—After the adoption of a minor child by a stepparent or
162 close relative, the stepparent or close relative may petition
163 the court to terminate an order granting grandparent visitation
164 under this chapter which was entered before the adoption. The
165 court may terminate the order unless the grandparent is able to
166 show that the criteria of s. 752.011 authorizing the visitation
167 continue to be satisfied.

168 Section 6. Section 752.015, Florida Statutes, is amended to
169 read:

170 752.015 Mediation of visitation disputes.—It ~~is shall be~~
171 the public policy of this state that families resolve
172 differences over grandparent visitation within the family. It is
173 ~~shall be~~ the further public policy of this state that, when
174 families are unable to resolve differences relating to
175 grandparent visitation, ~~that~~ the family participate in any
176 formal or informal mediation services that may be available. If
177 ~~When~~ families are unable to resolve differences relating to
178 grandparent visitation and a petition is filed pursuant to s.
179 752.011 ~~s. 752.01~~, the court shall, if such services are
180 available in the circuit, refer the case to family mediation in
181 accordance with the Florida Family Law Rules of Procedure ~~rules~~
182 ~~promulgated by the Supreme Court.~~

183 Section 7. This act shall take effect July 1, 2015.

184 ===== T I T L E A M E N D M E N T =====



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185 And the title is amended as follows:

186 Delete everything before the enacting clause
187 and insert:

188 A bill to be entitled

189 An act relating to the rights of grandparents;
190 amending s. 752.001, F.S.; providing definitions;
191 repealing s. 752.01, F.S., relating to actions by a
192 grandparent for visitation rights; creating s.
193 752.011, F.S.; authorizing the grandparent of a minor
194 child to petition a court for visitation under certain
195 circumstances; requiring a preliminary hearing;
196 providing for the payment of attorney fees and costs
197 by a petitioner who fails to make a prima facie
198 showing of harm; authorizing grandparent visitation if
199 the court makes specified findings; providing factors
200 for court consideration; providing applicability of
201 the Uniform Child Custody Jurisdiction and Enforcement
202 Act; encouraging the consolidation of certain
203 concurrent actions; providing for modification of an
204 order awarding grandparent visitation; limiting the
205 frequency of actions seeking visitation; limiting
206 applicability to a minor child placed for adoption;
207 providing for venue; repealing s. 752.07, F.S.,
208 relating to the effect of adoption of a child by a
209 stepparent on grandparent visitation rights; creating
210 s. 752.071, F.S.; providing conditions under which a
211 court may terminate a grandparent visitation order
212 upon adoption of a minor child by a stepparent or
213 close relative; amending s. 752.015, F.S.; conforming



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provisions and cross-references to changes made by the
act; providing an effective date.