

JUDICIARY

SENATE FILE

2205

BY WARNSTADT

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_

Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_

Approved \_\_\_\_\_

**A BILL FOR**

1 An Act relating to the granting of visitation to grandparents and  
2 great-grandparents.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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SF 2205  
JUDICIARY

1 Section 1. Section 598.35, Code 2003, is amended by  
2 striking the section and inserting in lieu thereof the  
3 following:

4 598.35 GRANDPARENT -- GREAT-GRANDPARENT -- VISITATION.

5 1. The grandparent or great-grandparent of a minor child  
6 may petition the district court for grandchild or great-  
7 grandchild visitation rights. The district court may grant  
8 limited visitation rights if the district court finds all of  
9 the following by clear and convincing evidence:

10 a. The grandparent or great-grandparent has established a  
11 substantial relationship with the child prior to the filing of  
12 a petition.

13 b. The parent of the child is unfit to make the decision  
14 regarding the appropriate extent of contact and association,  
15 if any, between the child and any other person and regarding  
16 who may care for, supervise, and guide the child, or the  
17 parent's decision to deny visitation poses substantial harm to  
18 the child's emotional, mental, or physical well-being beyond  
19 the harm derived from the beneficial influence of the  
20 visitation.

21 c. If the court finds that substantial harm is posed to  
22 the child, the court also finds that the substantial harm may  
23 not be averted by any means less intrusive than the court-  
24 ordered granting of visitation.

25 d. It is in the child's best interest to grant such  
26 visitation.

27 2. There is a rebuttable presumption affecting the burden  
28 of proof that the granting of visitation to a grandparent or  
29 great-grandparent is not in the best interest of a minor child  
30 if a fit parent of the child objects to the granting of  
31 visitation to a grandparent or great-grandparent.

32 3. The court shall issue specific findings of fact  
33 detailing the clear and convincing evidence presented as to  
34 the harm specified and as to the reason why the visitation is  
35 necessary to avert the harm.

1 4. Visitation granted to a grandparent or a great-  
2 grandparent prior to July 1, 2004, shall not be affected by  
3 this section.

4 EXPLANATION

5 This bill replaces the current Code section providing for  
6 grandparent and great-grandparent visitation. The current  
7 section allows a grandparent or great-grandparent to petition  
8 the court for visitation rights if certain circumstances  
9 involving a parent are met. If one of the circumstances is  
10 met, the petition is to be granted if the court finds that the  
11 visitation is in the best interest of the child and that the  
12 grandparent or great-grandparent had established a substantial  
13 relationship with the child prior to the filing of the  
14 petition.

15 The bill allows a grandparent or great-grandparent of a  
16 minor child to petition the district court for grandchild or  
17 great-grandchild visitation rights, and the court is  
18 authorized to grant limited visitation if it finds all of the  
19 following by clear and convincing evidence:

20 1. The grandparent or great-grandparent has established a  
21 substantial relationship with the child prior to the filing of  
22 the petition.

23 2. The parent of the child is unfit to make the decision  
24 regarding the visitation, or the parent's decision to deny  
25 visitation poses substantial harm to the child's emotional,  
26 mental, or physical well-being beyond the harm derived from  
27 the beneficial influence of the visitation.

28 3. If the court finds that substantial harm is posed to  
29 the child, the court also finds that the harm may not be  
30 averted by any means less intrusive than the court-ordered  
31 granting of visitation.

32 4. It is in the child's best interest to grant such  
33 visitation.

34 The bill establishes a rebuttable presumption that the  
35 granting of visitation to a grandparent or great-grandparent

1 is not in the best interest of a minor child if a fit parent  
2 of the child objects to the granting of visitation to a  
3 grandparent or great-grandparent.

4 The bill directs the court to issue specific findings of  
5 fact detailing the clear and convincing evidence presented as  
6 to the harm specified and as to the reason why the visitation  
7 is necessary to avert the harm.

8 Finally, the bill provides that visitation granted to a  
9 grandparent or a great-grandparent prior to July 1, 2004, is  
10 not affected by the bill.

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