

Senate Study Bill 1216

SENATE FILE _____
BY (PROPOSED COMMITTEE ON
JUDICIARY BILL BY
CHAIRPERSON KREIMAN)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to grandparents and great-grandparents
2 visitation.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
4 TLSB 1741SC 82
5 pf/je/5

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1 1 Section 1. Section 598.35, Code 2007, is amended by
1 2 striking the section and inserting in lieu thereof the
1 3 following:
1 4 598.35 GRANDPARENT == GREAT=GRANDPARENT == VISITATION.
1 5 1. The grandparent or great-grandparent of a minor child
1 6 may petition the district court for grandchild or great=
1 7 grandchild visitation.
1 8 2. In order to give deference to the decisions of a fit
1 9 parent, the district court shall consider the fit parent's
1 10 objections to granting visitation under this section. A
1 11 rebuttable presumption arises that a fit parent's decision to
1 12 deny visitation to a grandparent or great-grandparent is in
1 13 the best interest of a minor child and will not pose
1 14 substantial harm or potential substantial harm to the minor
1 15 child.
1 16 3. The district court may grant visitation to the
1 17 grandparent or great-grandparent if the district court finds
1 18 all of the following by clear and convincing evidence:
1 19 a. The grandparent or great-grandparent has established a
1 20 substantial relationship with the child prior to the filing of
1 21 the petition.
1 22 b. The parent who is being asked to temporarily relinquish
1 23 care, custody, and control of the child to provide visitation
1 24 is unfit to make the decision regarding visitation, or a fit
1 25 parent's decision to deny visitation poses substantial harm or
1 26 potential substantial harm to the child beyond the harm
1 27 derived from the loss of the helpful, beneficial influence of
1 28 the grandparent or great-grandparent.
1 29 c. It is in the best interest of the child to grant such
1 30 visitation.
1 31 4. Visitation granted to a grandparent or a great=
1 32 grandparent prior to July 1, 2007, shall not be affected by
1 33 this section.

EXPLANATION

1 34 This bill replaces the current grandparent and great=
2 1 grandparent visitation provisions. Under the bill, a
2 2 grandparent or great-grandparent of a minor child may petition
2 3 the district court for visitation. In order to give deference
2 4 to the decisions of a fit parent, the district court is
2 5 required to consider the fit parent's objections to granting
2 6 visitation, and a rebuttable presumption arises that a fit
2 7 parent's decision to deny visitation to a grandparent or
2 8 great-grandparent is in the best interest of the minor child
2 9 and will not pose substantial harm or potential substantial
2 10 harm to the minor child.
2 11 The district court may grant visitation if the court finds
2 12 by clear and convincing evidence that: the grandparent or
2 13 great-grandparent has established a substantial relationship
2 14 with the child prior to the filing of the petition; the parent
2 15 who is being asked to temporarily relinquish care, custody,
2 16 and control of the child to provide visitation is unfit to
2 17 make that decision or a fit parent's decision to deny
2 18 visitation poses substantial harm or potential substantial

2 19 harm to the child beyond the harm derived from the loss of the
2 20 helpful, beneficial influence of the grandparent or
2 21 great-grandparent; and it is in the best interest of the child
2 22 to grant such visitation.
2 23 Under the bill, visitation granted to a grandparent or a
2 24 great-grandparent prior to July 1, 2007, is not affected.
2 25 LSB 1741SC 82
2 26 pf:rj/je/5