

House File 297 - Introduced

HOUSE FILE 297

BY SODERBERG

(COMPANION TO SF 55)

A BILL FOR

1 An Act relating to grandparent and great-grandparent

2 visitation.

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

1 Section 1. Section 600C.1, Code 2011, is amended by striking
2 the section and inserting in lieu thereof the following:

3 **600C.1 Grandparent and great-grandparent visitation.**

4 1. The grandparent or great-grandparent of a minor child
5 may petition the court for grandchild or great-grandchild
6 visitation.

7 2. The court shall consider a fit parent's objections
8 to granting visitation under this section. A rebuttable
9 presumption arises that a fit parent's decision to deny
10 visitation to a grandparent or great-grandparent is in the best
11 interest of a minor child.

12 3. The court may grant visitation to the grandparent or
13 great-grandparent if the court finds all of the following by
14 clear and convincing evidence:

15 a. The grandparent or great-grandparent has established a
16 substantial relationship with the child prior to the filing of
17 the petition.

18 b. The parent who is being asked to temporarily relinquish
19 care, custody, and control of the child to provide visitation
20 is unfit to make the decision regarding visitation.

21 c. It is in the best interest of the child to grant such
22 visitation.

23 4. Notwithstanding the requirements of subsection
24 3, the court may grant visitation to the grandparent or
25 great-grandparent if the court finds all of the following by
26 clear and convincing evidence:

27 a. The grandparent or great-grandparent has established a
28 substantial relationship with the child prior to the filing of
29 the petition.

30 b. The parent is unable to provide evidence that the
31 grandparent or great-grandparent is unfit to be granted
32 visitation or that granting visitation will place the child at
33 risk of physical or emotional harm.

34 c. The relationship between the grandparent or
35 great-grandparent and the parent has been significantly

1 impaired causing the parent to act in the parent's best
2 interest.

3 d. Granting such visitation is in the best interest of the
4 child.

5 5. For the purposes of this section, "court" means the
6 district court or the juvenile court if that court currently
7 has jurisdiction over the child in a pending action. If an
8 action is not pending, the district court has jurisdiction.

9 6. Notwithstanding any provision of this chapter to the
10 contrary, venue for any action to establish, enforce, or modify
11 visitation under this section shall be in the county where
12 either parent resides if no final custody order determination
13 relating to the grandchild or great-grandchild has been entered
14 by any other court. If a final custody order has been entered
15 by any other court, venue shall be located exclusively in the
16 county where the most recent final custody order was entered.
17 If any other custodial proceeding is pending when an action to
18 establish, enforce, or modify visitation under this section is
19 filed, venue shall be located exclusively in the county where
20 the pending custodial proceeding was filed.

21 7. Notice of any proceeding to establish, enforce, or
22 modify visitation under this section shall be personally served
23 upon all parents of a child whose interests are affected
24 by a proceeding brought pursuant to this section and all
25 grandparents or great-grandparents who have previously obtained
26 a final order or commenced a proceeding under this section.

27 8. The court shall not enter any temporary order to
28 establish, enforce, or modify visitation under this section.

29 9. An action brought under this section is subject to
30 chapter 598B, and in an action brought to establish, enforce,
31 or modify visitation under this section, each party shall
32 submit in its first pleading or in an attached affidavit all
33 information required by section 598B.209.

34 10. In any action brought to establish, enforce, or modify
35 visitation under this section, the court may award attorney

1 fees to the prevailing party in an amount deemed reasonable by
2 the court.

3 11. If a proceeding to establish or enforce visitation
4 under this section is commenced when a dissolution of marriage
5 proceeding is pending concerning the parents of the affected
6 minor child, the record and evidence of the dissolution
7 action shall remain impounded pursuant to section 598.26.
8 The impounded information shall not be released or otherwise
9 made available to any person who is not the petitioner or
10 respondent or an attorney of record in the dissolution of
11 marriage proceeding. Access to the impounded information by
12 the attorney of record for the grandparent or great-grandparent
13 shall be limited to only that information relevant to the
14 grandparent's or great-grandparent's request for visitation.

15 EXPLANATION

16 This bill relates to granting of visitation to grandparents
17 or great-grandparents. The bill strikes the current provision
18 which limits petitioning for grandparent or great-grandparent
19 visitation to grandparents or great-grandparents of a minor
20 child when the parent of the minor child, who is the child of
21 the grandparent or the grandchild of the great-grandparent,
22 is deceased. The bill replaces the stricken language with
23 the prior law (Code 2009) which does not so restrict those
24 grandparents or great-grandparents who may petition the
25 court for visitation. The bill also adds a new provision
26 that provides, notwithstanding the requirements for granting
27 visitation to a grandparent or great-grandparent, the court
28 may grant such visitation if the court finds by clear and
29 convincing evidence that: the grandparent or great-grandparent
30 has established a substantial relationship with the child
31 prior to the filing of the petition; the parent is unable to
32 provide evidence that the grandparent or great-grandparent is
33 unfit to be granted visitation or that granting visitation
34 will place the child at risk of physical or emotional harm;
35 the relationship between the grandparent or great-grandparent

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1 and the parent has been significantly impaired causing the
2 parent to act in the parent's best interest; and granting such
3 visitation is in the best interest of the child.