

House File 2525 - Introduced

HOUSE FILE 2525
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HF 2285)

A BILL FOR

1 An Act relating to the circumstances under which a grandparent
2 or great-grandparent may petition for grandparent and
3 great-grandparent visitation.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 600C.1, Code 2020, is amended to read as
2 follows:

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

5 1. The grandparent or great-grandparent of a minor child
6 may petition the court for grandchild or great-grandchild
7 visitation when the either of the following applies:

8 a. The parent of the minor child, who is the child of the
9 grandparent or the grandchild of the great-grandparent, is
10 deceased.

11 b. The parents of the minor child are divorced or were never
12 married and the parent who is not the child of the grandparent
13 or the grandchild of the great-grandparent has sole custody of
14 the minor child.

15 2. The court shall consider a fit parent's objections
16 to granting visitation under **this section**. A rebuttable
17 presumption arises that a fit parent's decision to deny
18 visitation to a grandparent or great-grandparent is in the best
19 interest of a minor child.

20 3. The court may grant visitation to the grandparent or
21 great-grandparent under **this section** if the court finds all of
22 the following by clear and convincing evidence:

23 a. It is in the best interest of the minor child to grant
24 such visitation.

25 b. The grandparent or great-grandparent has established
26 a substantial relationship with the minor child prior to the
27 filing of the petition.

28 c. That the presumption that the parent who is being asked
29 to temporarily relinquish care, custody, and control of the
30 minor child to provide visitation is fit to make the decision
31 regarding visitation is overcome by demonstrating one of the
32 following:

33 (1) The parent is unfit to make such decision.

34 (2) The parent's judgment has been impaired and the
35 relative benefit to the minor child of granting visitation

1 greatly outweighs any effect on the parent-child relationship.
2 Impaired judgment of a parent may be evidenced by any of, but
3 not limited to, the following:

4 (a) Neglect of the minor child.

5 (b) Abuse of the minor child.

6 (c) Violence toward the minor child.

7 (d) Indifference or absence of feeling toward the minor
8 child.

9 (e) Demonstrated unwillingness and inability to promote the
10 emotional and physical well-being of the minor child.

11 (f) Drug abuse.

12 (g) A diagnosis of mental illness.

13 4. In determining the best interest of the minor child, the
14 court shall consider all of the following:

15 a. The prior interaction and interrelationships of the
16 minor child with the minor child's parents, siblings, and
17 other persons related by consanguinity or affinity, compared
18 to the minor child's relationship with the grandparent or
19 great-grandparent.

20 b. The geographical location of the grandparent's or
21 great-grandparent's residence and the distance between the
22 grandparent's or great-grandparent's residence and the minor
23 child's residence.

24 c. The minor child's and parent's available time, including
25 but not limited to the parent's employment schedule, the minor
26 child's school schedule, the amount of time that will be
27 available for the minor child to spend with siblings, and the
28 minor child's and the parent's holiday and vacation schedules.

29 d. The age of the minor child.

30 e. If the court has interviewed the minor child in chambers
31 as provided in [this section](#) regarding the wishes and concerns
32 of the minor child as to visitation by the grandparent or
33 great-grandparent or as to a specific visitation schedule, the
34 wishes and concerns of the minor child, as expressed to the
35 court.

- 1 *f.* The health and safety of the minor child.
- 2 *g.* The mental and physical health of all parties.
- 3 *h.* Whether the grandparent or great-grandparent previously
4 has been convicted of or pleaded guilty to any criminal
5 offense involving any act that resulted in a child being an
6 abused child or a neglected child; whether the grandparent
7 or great-grandparent previously has been convicted of or
8 pleaded guilty to a crime involving a victim who at the time
9 of the commission of the offense was a member of the family
10 or household that is the subject of the current proceeding;
11 and whether there is reason to believe that the grandparent or
12 great-grandparent has acted in a manner resulting in a child
13 having ever been found to be an abused child or a neglected
14 child.
- 15 *i.* The wishes and concerns of the minor child's parent, as
16 expressed by the parent to the court.
- 17 *j.* Any other factor in the best interest of the minor child.
- 18 5. For the purposes of [this section](#), "*substantial*
19 *relationship*" includes but is not limited to any of the
20 following:
- 21 *a.* The minor child has lived with the grandparent or
22 great-grandparent for at least six months.
- 23 *b.* The grandparent or great-grandparent has voluntarily and
24 in good faith supported the minor child financially in whole or
25 in part for a period of not less than six months.
- 26 *c.* The grandparent or great-grandparent has had frequent
27 visitation including occasional overnight visitation with the
28 minor child for a period of not less than one year.
- 29 6. If the court interviews any minor child concerning the
30 minor child's wishes and concerns regarding parenting time or
31 visitation, the interview shall be conducted in chambers, and
32 only the minor child, the minor child's attorney, the judge,
33 any necessary court personnel, and, in the judge's discretion,
34 the attorney of the parent shall be permitted to be present in
35 the chambers during the interview. A person shall not obtain

1 or attempt to obtain from a minor child a written or recorded
2 statement or affidavit setting forth the wishes and concerns of
3 the minor child regarding parenting time or visitation.

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

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

20 9. Notice of any proceeding to establish, enforce, or modify
21 visitation under [this section](#) shall be personally served upon
22 the parent of the minor child whose interests are affected
23 by a proceeding brought pursuant to [this section](#) and all
24 grandparents or great-grandparents who have previously obtained
25 a final order or commenced a proceeding under [this section](#).

26 10. The court shall not enter any temporary order to
27 establish, enforce, or modify visitation under [this section](#).

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

33 12. A grandparent or great-grandparent shall not petition
34 for visitation under [this section](#) more than once every two
35 years absent a showing of good cause.

1 13. The court shall not issue an order restricting
2 the movement of the minor child if such restriction is
3 solely for the purpose of allowing the grandparent or
4 great-grandparent the opportunity to exercise the grandparent's
5 or great-grandparent's visitation under [this section](#).

6 EXPLANATION

7 The inclusion of this explanation does not constitute agreement with
8 the explanation's substance by the members of the general assembly.

9 This bill relates to the granting of grandparent and
10 great-grandparent visitation.

11 The bill provides an additional circumstance under which a
12 grandparent or great-grandparent may petition for visitation.
13 Under the bill, in addition to the situation in which the
14 parent of the minor child, who is the child of the grandparent
15 or the grandchild of the great-grandparent, is deceased, a
16 grandparent or great-grandparent may petition for visitation
17 if the parents of the minor child are divorced or were never
18 married and the parent who is not the child of the grandparent
19 or the grandchild of the great-grandparent has sole custody of
20 the minor child.