

FIRST REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 700
100TH GENERAL ASSEMBLY

Reported from the Committee on the Judiciary and Civil and Criminal Jurisprudence, May 9, 2019, with recommendation that the Senate Committee Substitute do pass.

1653S.04C

ADRIANE D. CROUSE, Secretary.

AN ACT

To repeal section 452.402, RSMo, and to enact in lieu thereof one new section relating to grandparents' visitation rights.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 452.402, RSMo, is repealed and one new section
2 enacted in lieu thereof, to be known as section 452.402, to read as follows:

452.402. 1. The court may grant reasonable visitation rights to the
2 grandparents of the child and issue any necessary orders to enforce the
3 decree[. The court may grant] **when a grandparent [visitation when] has been**
4 **unreasonably denied visitation for a period exceeding sixty days, and:**

5 (1) The parents of the child have filed for a dissolution of their marriage.
6 A grandparent shall have the right to intervene in any dissolution action solely
7 on the issue of visitation rights. Grandparents shall also have the right to file
8 a motion to modify the original decree of dissolution to seek visitation rights
9 when visitation has been denied to them; [or]

10 (2) One parent of the child is deceased and the surviving parent denies
11 reasonable visitation to a parent of the deceased parent of the child; or

12 (3) The child has resided in the grandparent's home for at least six
13 months within the twenty-four month period immediately preceding the filing of
14 the petition[; and].

15 [(4) A grandparent is unreasonably denied visitation with the child for a
16 period exceeding ninety days. However,]

17 **Except as otherwise provided in subdivision (1) of this subsection, if the**

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

18 natural parents are legally married to each other and are living together with the
19 child, a grandparent may not file for visitation pursuant to this [subdivision]
20 **subsection.**

21 **2. Before ordering visitation,** the court shall, **in addition to the**
22 **requirements of subsection 1 of this section,** determine if the visitation by
23 the grandparent would be in the child's best [interest or if it would endanger the
24 child's physical health or impair the child's emotional development]
25 **interests.** Visitation may only be ordered when the court finds such visitation
26 to be in the best interests of the child. [However, when the parents of the child
27 are legally married to each other and are living together with the child, it shall
28 be a rebuttable presumption that such parents know what is in the best interest
29 of the child.] The court may order reasonable conditions or restrictions on
30 grandparent visitation.

31 **3.** If the court finds it to be in the best interests of the child, the court
32 may appoint a guardian ad litem for the child. The guardian ad litem shall be
33 an attorney licensed to practice law in Missouri. The guardian ad litem may, for
34 the purpose of determining the question of grandparent visitation rights,
35 participate in the proceedings as if such guardian ad litem were a party. The
36 court shall enter judgment allowing a reasonable fee to the guardian ad litem.

37 **4.** A home study, as described by section 452.390, may be ordered by the
38 court to assist in determining the best interests of the child.

39 **5.** The court may, in its discretion, consult with the child regarding the
40 child's wishes in determining the best interest of the child.

41 **6.** The right of a grandparent to maintain visitation rights pursuant to
42 this section may terminate upon the adoption of the child.

43 **7.** The court may award reasonable attorneys fees and expenses to the
44 prevailing party.

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