

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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SENATE DRS15045-LU-10 (12/31)

Short Title: Grandparents Visitation/Louise's Law.

(Public)

Sponsors: Senator Hoyle.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR AN EXPANSION OF RIGHTS UNDER EXISTING
LAW PERTAINING TO GRANDPARENT VISITATION.

Whereas, the General Assembly finds that it is important to the development of the children of this State to encourage the development and nurturing embodied within the relationship between a child and his or her grandparent; and

Whereas, the General Assembly finds that the relationship between a child and his or her grandparent is one that should be protected by ensuring as a matter of right that the relationship be maintained; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. This act shall be known as "Louise's Law".

SECTION 2. G.S. 50-13.2(b1) reads as rewritten:

"(b1) An order for custody of a minor child may provide visitation rights for any grandparent of the child as the court, in its discretion, deems appropriate. ~~As used in this subsection, "grandparent" includes a biological grandparent of a child adopted by a stepparent or a relative of the child where a substantial relationship exists between the grandparent and the child.~~ Under no circumstances shall a biological grandparent of a child adopted by adoptive parents, neither of whom is related to the child and where parental rights of both biological parents have been terminated, be entitled to visitation rights."

SECTION 3. G.S. 50-13.2A reads as rewritten:

§ 50-13.2A. Action for visitation of an adopted grandchild by grandparent.

A biological grandparent may institute an action or proceeding for visitation rights with a ~~child adopted by a stepparent or a relative of the child where a substantial relationship exists between the grandparent and the child.~~ child under the provisions of this section. Under no circumstances shall a biological grandparent of a child adopted

1 by adoptive parents, neither of whom is related to the child and where parental rights of
2 both biological parents have been terminated, be entitled to visitation rights.

3 The court shall determine grandparent visitation rights on a case-by-case basis. In
4 awarding grandparent visitation, the court may determine the time, place, and
5 circumstances of visitation. For purposes of this section, visitation shall not include
6 custody. A court may award visitation rights only if it determines that visitation is in the
7 best interest of the child. An order awarding visitation rights shall contain findings of
8 fact which that support the determination by the judge of the best interest of the child. In
9 determining the best interest of the child, the court shall consider the following:

- 10 (1) Whether there is a preexisting relationship between the grandparent
11 and the child, or the willingness of the grandparent to encourage a
12 close relationship between the child and the parent.
- 13 (2) The willingness of the child to develop a relationship with the
14 grandparent, if the court determines that the child is of sufficient
15 maturity to make that decision.
- 16 (3) The reasonableness or lack of reasonableness of the custodial parent in
17 allowing, restricting, or denying visitation to the grandparent in the
18 past.
- 19 (4) The mental and physical health of the child.
- 20 (5) The mental and physical health of the grandparent.
- 21 (6) Whether the circumstances and amount of visitation will substantially
22 interfere with the right of the parent to exercise his or her parental
23 authority.
- 24 (7) Any other relevant factors the court deems necessary in determining
25 the best interest of the child.

26 There is a rebuttable presumption that visitation by a grandparent is not in the best
27 interest of the child if the child's biological parents agree that the grandparent should not
28 be awarded visitation rights. Procedure, venue, and jurisdiction shall be the same as in
29 an action for custody."

30 **SECTION 4.** G.S. 50-13.5(j) reads as rewritten:

31 "(j) Custody and Visitation Rights of Grandparents. – In any action in which the
32 custody of a minor child has been determined, upon a motion in the cause and a
33 showing of changed circumstances pursuant to G.S. 50-13.7, the grandparents of the
34 child are entitled to such custody or visitation rights as the court, in its discretion, deems
35 appropriate. ~~As used in this subsection, "grandparent" includes a biological grandparent~~
36 ~~of a child adopted by a stepparent or a relative of the child where a substantial~~
37 ~~relationship exists between the grandparent and the child.~~ Under no circumstances shall
38 a biological grandparent of a child adopted by adoptive parents, neither of whom is
39 related to the child and where parental rights of both biological parents have been
40 terminated, be entitled to visitation rights."

41 **SECTION 5.** This act is effective when it becomes law.