

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2005

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SENATE BILL 395

Short Title: Grandparents Visitation/Louise's Law.

(Public)

Sponsors: Senator Hoyle.

Referred to: Judiciary I.

March 7, 2005

1 A BILL TO BE ENTITLED  
2 AN ACT TO PROVIDE FOR AN EXPANSION OF RIGHTS UNDER EXISTING  
3 LAW PERTAINING TO GRANDPARENT VISITATION.

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

7 Whereas, the General Assembly finds that the relationship between a child  
8 and his or her grandparent is one that should be protected by ensuring as a matter of  
9 right that the relationship be maintained; Now, therefore,  
10 The General Assembly of North Carolina enacts:

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

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

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

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

22 **"§ 50-13.2A. Action for visitation of an adopted grandchild by grandparent.**

23 A biological grandparent may institute an action or proceeding for visitation rights  
24 with a ~~child adopted by a stepparent or a relative of the child where a substantial~~  
25 ~~relationship exists between the grandparent and the child.~~ child under the provisions of  
26 this section. Under no circumstances shall a biological grandparent of a child adopted  
27 by adoptive parents, neither of whom is related to the child and where parental rights of  
28 both biological parents have been terminated, be entitled to visitation rights.

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

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

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

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

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

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