

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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SENATE BILL 44\*  
Corrected Copy 2/5/97

Short Title: Grandparent Visitation.

(Public)

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Sponsors: Senators Lucas; Allran, Conder, Dannelly, Forrester, Kincaid, Martin of Guilford, Odom, Shaw of Cumberland, and Weinstein.

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Referred to: Children and Human Resources.

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February 4, 1997

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 The General Assembly of North Carolina enacts:

5 Section 1. G.S. 50-13.1(a) reads as rewritten:

6 "(a) Any parent, relative, or other person, agency, organization or institution  
7 claiming the right to custody of a minor child may institute an action or proceeding for  
8 the custody of such child, as hereinafter provided. Unless a contrary intent is clear, the  
9 word 'custody' as it applies to parents of a minor child shall be deemed to include custody  
10 or visitation or both."

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

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

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

2 **"§ 50-13.2A. Action for visitation of an adopted grandchild by grandparent.**

3 A ~~biological~~ grandparent may institute an action or proceeding for visitation rights  
4 with a ~~grandchild~~ ~~child~~ ~~adopted by a stepparent or a relative of the child where a~~  
5 ~~substantial relationship exists between the grandparent and the child.~~ under the  
6 provisions of this section. Under no circumstances shall a biological grandparent of a  
7 child adopted by adoptive parents, neither of whom is related to the child and where  
8 parental rights of both biological parents have been terminated, be entitled to visitation  
9 rights. A court may award such visitation rights ~~if as~~ it determines ~~that visitation is to be~~  
10 ~~in the best interest of the child.~~ grandchild. ~~An order awarding visitation rights shall~~  
11 ~~contain findings of fact which support the determination by the judge of the best interest~~  
12 ~~of the child.~~ An order awarding or denying visitation under this section shall contain  
13 findings of fact supporting the award or denial of visitation based on the grandchild's best  
14 interest. If the grandchild's legal parents are married and living together, the court shall  
15 not award visitation unless the court determines the following by clear and convincing  
16 evidence: (1) either that there is a preexisting relationship between the grandparent and  
17 the grandchild that has engendered a bond, or that the grandparent has made a substantial  
18 effort to establish a bond, such that visitation is in the best interest of the grandchild, and  
19 (2) that the amount and circumstances of the visitation awarded will not substantially  
20 interfere with the right of the parents to exercise their parental authority. Where the  
21 grandchild's legal parents are married and living together, there is a presumption that may  
22 be rebutted by clear and convincing evidence that visitation by a grandparent is not in the  
23 best interest of the grandchild if the grandchild's legal parents agree that the grandparent  
24 should not be granted visitation rights. Where the grandchild's legal parents either are not  
25 married or are not living together, or both, there is no presumption on behalf of any party  
26 to the action. Procedure, venue, and jurisdiction ~~shall be~~ are the same as in an action for  
27 custody."

28 Section 4. G.S. 50-13.5(j) is repealed.

29 Section 5. This act becomes effective October 1, 1997.