

**NORTH CAROLINA GENERAL ASSEMBLY**

**LEGISLATIVE FISCAL NOTE**

**BILL NUMBER:** Senate Bill 44

**SHORT TITLE:** Grandparent Visitation

**SPONSOR(S):** Senator Lucas

**FISCAL IMPACT**

Yes ( )      No ( )      No Estimate Available (X)

FY 1997-98   FY 1998-99   FY 1999-00   FY 2000-01   FY 2001-02

**REVENUES**      No Reliable Estimate Available

**EXPENDITURES**      No Reliable Estimate Available

**POSITIONS:**      No Reliable Estimate Available

**PRINCIPAL DEPARTMENT(S) &  
PROGRAM(S) AFFECTED:** Judicial Branch

**EFFECTIVE DATE:** October 1, 1997

**BILL SUMMARY: GRANDPARENT VISITATION. TO PROVIDE FOR AN EXPANSION OF RIGHTS UNDER EXISTING LAW PERTAINING TO GRANDPARENT VISITATION.**

Repeals GS 50-13.5(j) (custody and visitation rights of grandparents) and amends GS 50-13.2A to allow any grandparent to file an action seeking visitation rights with respect to a grandchild. If the grandchild's legal parents are married and living together the court may not award visitation rights to the grandparent unless there is clear and convincing evidence that (1) visitation is in the grandchild's best interests, (2) there is a preexisting relationship between the grandparent and grandchild that has engendered a bond, or the grandparent has made a substantial effort to establish a bond, and (3) that the amount and circumstances of the visitation will not substantially interfere with the right of the parents to exercise their parental authority. There is no legal presumption with respect to the award or denial of grandparent visitation rights when the grandchild's legal parents are not married or are not living together. Effective Oct. 1, 1997.<sup>1</sup>

<sup>1</sup> *Daily Bulletin*, Institute of Government, UNC-Chapel Hill: Vol. 1997, No. 4.

## **ASSUMPTIONS AND METHODOLOGY:**

Present North Carolina law does not allow a grandparent to go to court to seek visitation with a grandchild if the grandchild lives in an intact family, where the parents are married and living together, and there has been no determination of custody. In addition, current law requires that there be a change of circumstances before grandparents can ask for visitation in situations where there has been already been a custody order. The bill would expand grandparents' visitation rights by allowing any grandparent to file an action seeking visitation rights with respect to a grandchild, including grandchildren living in intact families as well as those where there has already been a determination of custody.

This bill's expansion of grandparent visitation rights may lead to new court actions and proceedings. However, the court system reports to have no means of estimating the number of new proceedings. In those 17 district court districts with custody and visitation mediation programs, these cases would generally be referred to mediation, which would create additional, potentially time-consuming work requirements on the mediation program staff. In those cases in which the parties are unable to resolve the issues through mediation, and in the districts that do not have custody and visitation mediation programs, grandparent visitation cases would be litigated through traditional district court processes. There may be workload increases for district court judges and clerks.

The Center for State Courts was contacted to gather more information on what other states are doing this area. Two other states have laws similar to this bill. In one of these states, grandparent visitation cases are lumped together with other custody mediation cases and cannot be distinguished. Since these cases are not accounted for separately, data is not as to how many cases relate specifically to grandparent visitation.

Reliable estimates of additional costs cannot be determined, at this time, since the number of cases that may be heard cannot be reliably estimated. Since this bill will create an expansion of new visitation rights to a population, the Judicial Branch cannot provide a number as to how many cases, of this nature, the court system might absorb without creating a fiscal impact. Due to the lack of available data and the assumptions outlined by the Judicial Branch, Fiscal Research staff cannot reliably estimate the fiscal impact of this bill..

**TECHNICAL CONSIDERATIONS:** None.

## **FISCAL RESEARCH DIVISION**

**733-4910**

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**DATE:** March 7, 1997



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