

FIRST REGULAR SESSION

HOUSE BILL NO. 1132

94TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES LAMPE (Sponsor), MEADOWS, YAEGER, MOORE,
WILDBERGER, SCHNEIDER, SATER, HODGES, NASHEED, SALVA AND HOLSMAN (Co-sponsors).

Read 1st time March 15, 2007 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

1801L.01I

AN ACT

To repeal sections 452.402 and 452.403, RSMo, and to enact in lieu thereof two new sections relating to child visitation.

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

Section A. Sections 452.402 and 452.403, RSMo, are repealed and two new sections
2 enacted in lieu thereof, to be known as sections 452.402 and 452.403, to read as follows:

452.402. 1. The court may grant reasonable visitation rights to the grandparents of the
2 child and issue any necessary orders to enforce the decree. The court may grant grandparent
3 visitation when:

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

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

10 (3) The child has resided in the grandparent's home for at least six months within the
11 twenty-four month period immediately preceding the filing of the petition; and

12 (4) A grandparent is unreasonably denied visitation with the child for a period exceeding
13 ninety days. However, if the natural parents are legally married to each other and are living
14 together with the child, a grandparent may not file for visitation pursuant to this subdivision.

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

15 2. The court shall determine if the visitation by the grandparent would be in the child's
16 best interest or if it would endanger the child's physical health or impair the child's emotional
17 development. Visitation may only be ordered when the court finds such visitation to be in the
18 best interests of the child. However, when the parents of the child are legally married to each
19 other and are living together with the child, it shall be a rebuttable presumption that such parents
20 know what is in the best interest of the child. The court may order reasonable conditions or
21 restrictions on grandparent visitation.

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

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

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

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

33 7. The court may award reasonable attorneys fees and expenses to the prevailing party.

34 **8. If both grandparents of the child are deceased, an aunt or uncle of the child may**
35 **be granted visitation under this section in lieu of visitation rights of the grandparents;**
36 **except that, the court shall not be required to grant visitation to all aunts and uncles of the**
37 **child, but may limit such visitation to one such aunt or uncle.**

 452.403. 1. Upon the written request of a grandparent denied visitation with a
2 grandchild **or the aunt or uncle of the child denied visitation with the child in lieu of the**
3 **grandparents under subsection 8 of section 452.402**, the associate division of the circuit court
4 may order mediation with any party who has custody or visitation rights with the minor child and
5 appoint a mediator. Such written request need not follow the rules of civil procedure and need
6 not be written or filed by an attorney.

7 2. As used in this section, "mediation" is the process by which a neutral mediator
8 appointed by the court assists the parties in reaching a mutually acceptable voluntary and
9 consensual agreement in the best interests of the child as to issues of child care and visitation.
10 The role of the mediator is to aid the parties in identifying the issues, reducing
11 misunderstandings, clarifying priorities, exploring areas of common interest and finding points
12 of agreement. An agreement reached by the parties shall be based on the decisions of the parties

13 and not the decisions of the mediator. The agreement reached may resolve all or only some of
14 the disputed issues.

15 3. At any time after the third mediation session, either party may terminate mediation
16 ordered pursuant to this section.

17 4. The costs of the mediation shall be paid by the grandparent **or any aunt or uncle**
18 requesting the mediation order.

19 5. The venue shall be in the county where the child resides.

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