

SECOND REGULAR SESSION

HOUSE BILL NO. 1494

97TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE STREAM.

5485L.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 452.402, RSMo, and to enact in lieu thereof one new section relating to grandparent visitation.

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

Section A. Section 452.402, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 452.402, to read as follows:

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

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

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

(3) The child has resided in the grandparent's home for at least six months [within the], **whether or not consecutively, over a** twenty-four month period immediately preceding the filing **date** of the petition **by a grandparent**; and

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

2. The court shall determine if the visitation by the grandparent would be in the child's best interest or if it would endanger the child's physical health or impair the child's emotional

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.

18 development. Visitation may only be ordered when the court finds such visitation to be in the
19 best interests of the child. However, when the parents of the child are legally married to each
20 other and are living together with the child, it shall be a rebuttable presumption that such parents
21 know what is in the best interest of the child. The court may order reasonable conditions or
22 restrictions on grandparent visitation.

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

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

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

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

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

✓