

FIRST REGULAR SESSION

HOUSE BILL NO. 977

99TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE QUADE.

2041H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

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

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Section A. Sections 452.402 and 452.403, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 452.402 and 452.403, to read as follows: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 or siblings** of the child and issue any necessary orders to enforce the decree. The court may grant grandparent **or sibling** visitation when:

(1) The parents of the child have filed for a dissolution of their marriage. A grandparent **or sibling** shall have the right to intervene in any dissolution action solely on the issue of visitation rights. Grandparents **or siblings** 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 **or to a sibling** of the child; or

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

(4) A grandparent **or sibling** 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 **or sibling** 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.

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

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

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

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

34 6. The right of a grandparent **or sibling** to maintain visitation rights pursuant to this
35 section may terminate upon the adoption of the child.

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

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

6 2. As used in this section, "mediation" is the process by which a neutral mediator
7 appointed by the court assists the parties in reaching a mutually acceptable voluntary and
8 consensual agreement in the best interests of the child as to issues of child care and visitation.
9 The role of the mediator is to aid the parties in identifying the issues, reducing
10 misunderstandings, clarifying priorities, exploring areas of common interest and finding points
11 of agreement. An agreement reached by the parties shall be based on the decisions of the parties
12 and not the decisions of the mediator. The agreement reached may resolve all or only some of
13 the disputed issues.

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

16 4. The costs of the mediation shall be paid by the grandparent **or sibling** requesting the
17 mediation order.

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

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