

FIRST REGULAR SESSION

# HOUSE BILL NO. 1165

## 103RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE MAYHEW.

1841H.011

JOSEPH ENGLER, 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Section A. Section 452.402, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 452.402, to read as follows: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 when a grandparent has been unreasonably denied visitation for a period exceeding sixty days, and:

(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;

(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 parents of the child were never married and the parent with custodial rights has denied reasonable visitation to a grandparent; or**

~~[(3)]~~ (4) The child has resided in the grandparent's home for at least six months within the twenty-four month period immediately preceding the filing of the petition.

~~[Except as otherwise provided in subdivision (1) of this subsection, 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 subsection.]~~

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           **2. Notwithstanding any provision of law, if a grandparent has been denied**  
19 **reasonable visitation with a child for a period exceeding sixty days and an action**  
20 **involving custody or visitation has been adjudicated, the grandparent may file seeking**  
21 **visitation with the child. A grandparent also has the right to file a motion for an**  
22 **independent action if no prior custody or visitation order exists to seek visitation rights**  
23 **if reasonable visitation has been denied.**

24           **3.** Before ordering visitation, the court shall, in addition to the requirements of  
25 subsection 1 of this section, determine if the visitation by the grandparent would be in the  
26 child's best interests. Visitation may only be ordered when the court finds such visitation to  
27 be in the best interests of the child. The court may order reasonable conditions or restrictions  
28 on grandparent visitation.

29           ~~[3-]~~ **4.** If the court finds it to be in the best interests of the child, the court may appoint  
30 a guardian ad litem for the child. The guardian ad litem shall be an attorney licensed to  
31 practice law in Missouri. The guardian ad litem may, for the purpose of determining the  
32 question of grandparent visitation rights, participate in the proceedings as if such guardian ad  
33 litem were a party. The court shall enter judgment allowing a reasonable fee to the guardian  
34 ad litem.

35           ~~[4-]~~ **5.** A home study, as described by section 452.390, may be ordered by the court to  
36 assist in determining the best interests of the child.

37           ~~[5-]~~ **6.** The court may, in its discretion, consult with the child regarding the child's  
38 wishes in determining the best interest of the child.

39           ~~[6-]~~ **7.** The right of a grandparent to maintain visitation rights pursuant to this section  
40 may terminate upon the adoption of the child.

41           ~~[7-]~~ **8.** The court may award reasonable attorneys fees and expenses to the prevailing  
42 party.

43           **9. If the parties reach an agreement regarding grandparent visitation, the court**  
44 **may enter an order confirming such agreement if the agreement is found to be in the**  
45 **best interests of the child. The court may impose additional conditions or restrictions as**  
46 **found to be appropriate by the court.**

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