

Stricken language would be deleted from present law. Underlined language would be added to present law.

1 State of Arkansas
2 81st General Assembly
3 Regular Session, 1997

A Bill

HOUSE BILL 1323

4 By: Representative Judy Smith

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For An Act To Be Entitled

8 "AN ACT AMENDING ARKANSAS CODE ANNOTATED § 9-13-103 TO
9 AUTHORIZE REASONABLE VISITATION RIGHTS FOR GRANDPARENTS
10 WHEN THE CHANCERY COURT FINDS VISITATION IS IN THE BEST
11 INTERESTS OF THE GRANDCHILDREN; AND FOR OTHER PURPOSES."

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Subtitle

14 "TO AMEND ARK. CODE § 9-13-103 TO
15 AUTHORIZE REASONABLE VISITATION RIGHTS
16 FOR GRANDPARENTS"

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18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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20 SECTION 1. Arkansas Code Annotated § 9-13-103 is amended to read as
21 follows:

22 "9-13-103. Visitation rights of grandparents.

23 (a)(1) Upon petition by a person properly before it, a chancery court
24 of this state may grant grandparents and great-grandparents reasonable
25 visitation rights with respect to their grandchild or grandchildren or
26 great-grandchild or great-grandchildren at any time if:

27 (A) The marital relationship between the parents of the
28 child has been severed by death, divorce, or legal separation; or

29 (B) The child is in the custody or under the guardianship
30 of a person other than one (1) or both of his natural or adoptive parents; or

31 (C) The child is illegitimate, and the person is a maternal
32 grandparent of the illegitimate child; or

33 (D) The child is illegitimate, and the person is a paternal
34 grandparent of the illegitimate child, and paternity has been established by a
35 court of competent jurisdiction.

36 (2) The visitation rights shall not be contingent on whether the

1 minor is natural or adoptive and may only be granted when the court determines
 2 that such an order would be in the best interest and welfare of the minor,
 3 that there was previously a close relationship between the grandparents or
 4 great-grandparents and the minor, and that the grandparents or
 5 great-grandparents have exhausted other remedies, including counseling, prior
 6 to petitioning the court.

7 (3)(A) An order denying visitation rights to grandparents and
 8 great-grandparents shall be in writing and shall state the reasons for denial.

9 (B) An order denying visitation rights is a final order for
 10 purposes of appeal.

11 (b) If the court denies the petition requesting grandparent visitation
 12 rights and determines that the petition for grandparent visitation rights is
 13 not well-founded, was filed with malicious intent or purpose, or is not in the
 14 best interest and welfare of the child, the court may, upon motion of the
 15 respondent, order the petitioner to pay reasonable attorney_s fees and court
 16 costs to the attorney of the respondent, after taking into consideration the
 17 financial ability of the petitioner and the circumstances involved.

18 ~~_____ (c) The provisions of subsections (a) and (b) of this section shall~~
 19 ~~only be applicable in situations:~~

20 ~~_____ (1) In which there is a severed marital relationship between the~~
 21 ~~parents of the natural or adoptive children by either death, divorce, or legal~~
 22 ~~separation; or~~

23 ~~_____ (2) In which the child is in the custody or under the~~
 24 ~~guardianship of a person other than one (1) or both of his natural or adoptive~~
 25 ~~parents; or~~

26 ~~_____ (3) If the child is illegitimate."~~

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28 SECTION 2. All provisions of this act of a general and permanent nature
 29 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
 30 Revision Commission shall incorporate the same in the Code.

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32 SECTION 3. If any provision of this act or the application thereof to
 33 any person or circumstance is held invalid, such invalidity shall not affect
 34 other provisions or applications of the act which can be given effect without
 35 the invalid provision or application, and to this end the provisions of this
 36 act are declared to be severable.

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SECTION 4. All laws and parts of laws in conflict with this act are hereby repealed.