

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas  
2 86th General Assembly  
3 Regular Session, 2007

# A Bill

HOUSE BILL 1157

4  
5 By: Representatives Wyatt, Rogers, Hall, Cook, L. Evans, Maxwell, Sample, T. Baker, J. Brown, Burkes,  
6 Cooper, D. Creekmore, George, House, Moore, Overbey, Petrus, Pierce, S. Prater, Pyle, J. Roebuck,  
7 Saunders, Stewart, Thyer, Wells, Wills, Woods

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## For An Act To Be Entitled

11 AN ACT TO PROVIDE VISITATION RIGHTS TO STEP-  
12 GRANDPARENTS AND FORMER STEP-GRANDPARENTS UNDER  
13 CERTAIN CIRCUMSTANCES; AND FOR OTHER PURPOSES.

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## Subtitle

16 AN ACT TO PROVIDE VISITATION RIGHTS TO  
17 STEP-GRANDPARENTS AND FORMER STEP-  
18 GRANDPARENTS UNDER CERTAIN  
19 CIRCUMSTANCES.

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

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

25 9-13-103. Visitation rights of grandparents or step-grandparents when  
26 the child is in the custody of a parent.

27 (a) For purposes of this section:

28 (1) "Child" means a minor under the age of eighteen (18) of whom  
29 the custodian has control and who is:

30 (A) The grandchild of the petitioner; ~~or~~

31 (B) The great-grandchild of the petitioner;

32 (C) The step-grandchild of the petitioner; or

33 (D) The former step-grandchild of the petitioner;

34 (2) "Counseling" means individual counseling, group counseling,  
35 or other intervention method;

36 (3) "Custodian" means the custodial parent of the child with the



1 authority to grant or deny grandparental or step-grandparental visitation;

2 (4) "Mediation service" means any formal or informal mediation;  
3 and

4 (5) "Petitioner" means any individual who may petition for  
5 visitation rights under this section.

6 (b) A grandparent, ~~or~~ great-grandparent, step-grandparent, or former  
7 step-grandparent may petition a circuit court of this state for reasonable  
8 visitation rights with respect to his or her grandchild or grandchildren, ~~or~~  
9 great-grandchild or great-grandchildren, step-grandchild or step-  
10 grandchildren, or former step-grandchild or former step-grandchildren under  
11 this section if:

12 (1) The marital relationship between the parents of the child  
13 has been severed by death, divorce, or legal separation;

14 (2) The child is illegitimate and the petitioner is a maternal  
15 grandparent of the illegitimate child; or

16 (3) The child is illegitimate, the petitioner is a paternal  
17 grandparent of the illegitimate child, and paternity has been established by  
18 a court of competent jurisdiction.

19 (c)(1) There is a rebuttable presumption that a custodian's decision  
20 denying or limiting visitation to the petitioner is in the best interest of  
21 the child.

22 (2) To rebut the presumption, the petitioner must prove by a  
23 preponderance of the evidence the following:

24 (A) The petitioner has established a significant and  
25 viable relationship with the child for whom he or she is requesting  
26 visitation; and

27 (B) Visitation with the petitioner is in the best interest  
28 of the child.

29 (d) To establish a significant and viable relationship with the child,  
30 the petitioner must prove by a preponderance of the evidence the following:

31 (1)~~(A)~~ The child resided with the petitioner for at least six  
32 (6) consecutive months with or without the current custodian present;

33 ~~(B)~~(2) The petitioner was the caregiver to the child on a  
34 regular basis for at least six (6) consecutive months; ~~or~~

35 ~~(C)~~(3) The petitioner had frequent or regular contact with  
36 the child for at least twelve (12) consecutive months; or

1           ~~(2)~~(4) Any other facts that establish that the loss of the  
2 relationship between the petitioner and the child is likely to harm the  
3 child.

4           (e) To establish that visitation with the petitioner is in the best  
5 interest of the child, the petitioner must prove by a preponderance of the  
6 evidence the following:

7                   (1) The petitioner has the capacity to give the child love,  
8 affection, and guidance;

9                   (2) The loss of the relationship between the petitioner and the  
10 child is likely to harm the child; and

11                   (3) The petitioner is willing to cooperate with the custodian if  
12 visitation with the child is allowed.

13           (f)(1) An order granting or denying visitation rights to grandparents  
14 ~~and, great-grandparents, step-grandparents, and former step-grandparents~~  
15 shall be in writing and shall state any and all factors considered by the  
16 court in its decision to grant or deny visitation under this section.

17                   (2)(A) If the court grants visitation to the petitioner under  
18 this section, then the visitation shall be exercised in a manner consistent  
19 with all orders regarding custody of or visitation with the child unless the  
20 court makes a specific finding otherwise.

21                           (B) If the court finds that the petitioner’s visitation  
22 should be restricted or limited in any way, then the court shall include the  
23 restrictions or limitations in the order granting visitation.

24                   (3) An order granting or denying visitation rights under this  
25 section is a final order for purposes of appeal.

26                   (4) After an order granting or denying visitation has been  
27 entered under this section, the custodian or petitioner may petition the  
28 court for the following:

29                           (A) Contempt proceedings if one (1) party to the order  
30 fails to comply with the order;

31                           (B) To address the issue of visitation based on a change  
32 in circumstances; or

33                           (C) To address the need to add or modify restrictions or  
34 limitations to visitation previously awarded under this section.

35           (g)(1) A court may order mediation services to resolve a visitation  
36 issue under this section if:

- 1 (A) Mediation services are available;
- 2 (B) Both parties agree to participate in mediation
- 3 services; and
- 4 (C) One (1) or both of the parties agree to pay for
- 5 mediation services.

6 (2) Records, notes, reports, or discussions related to the  
 7 mediation service shall not be used by the court to determine visitation  
 8 under this section.

9 (h)(1) A court may order counseling to address underlying matters  
 10 surrounding the visitation issue under this section if:

- 11 (A) Counseling is available;
- 12 (B) Both parties agree to participate in counseling; and
- 13 (C) One (1) or both of the parties agree to pay for
- 14 counseling.

15 (2) Records, notes, reports, or discussions related to the  
 16 counseling shall not be used by the court to determine visitation under this  
 17 section.

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19 SECTION 2. Arkansas Code § 9-13-107 is amended to read as follows:

20 9-13-107. Visitation rights of grandparents or step-grandparents when  
 21 the parent does not have custody of the child.

22 (a) For purposes of this section:

- 23 (1) "Child" means a minor under the age of eighteen (18) who is:
  - 24 (A) The grandchild of the petitioner; ~~or~~
  - 25 (B) The great-grandchild of the petitioner; ~~and~~
  - 26 (C) The step-grandchild of the petitioner; or
  - 27 (D) The former step-grandchild of the petitioner; and

28 (2) "Petitioner" means any individual who may petition for  
 29 visitation rights under this section.

30 (b) A grandparent, ~~or~~ great-grandparent, step-grandparent, or former  
 31 step-grandparent may petition the circuit court that granted the guardianship  
 32 or custody of a child for reasonable visitation rights with respect to his or  
 33 her grandchild or grandchildren, ~~or~~ great-grandchild or great-grandchildren,  
 34 step-grandchild or step-grandchildren, or former step-grandchild or former  
 35 step-grandchildren under this section if the child is in the custody or under  
 36 the guardianship of a person other than one (1) or both of his or her natural

1 or adoptive parents.

2 (c) Visitation with the child may be granted only if the court  
3 determines that visitation with the petitioner is in the best interest and  
4 welfare of the child.

5 (d)(1) An order granting or denying visitation rights to grandparents  
6 and, great-grandparents, step-grandparents, and former step-grandparents  
7 under this section shall be in writing and shall state any and all factors  
8 considered by the court in its decision to grant or deny visitation.

9 (2)(A) If the court grants visitation to the petitioner under  
10 this section, then the visitation shall be exercised in a manner consistent  
11 with all orders regarding custody of or visitation with the child unless the  
12 court makes a specific finding otherwise.

13 (B) If the court finds that the petitioner's visitation  
14 should be restricted or limited in any way, then the court shall include the  
15 restrictions or limitations in the order granting visitation.

16 (3) An order granting or denying visitation rights under this  
17 section is a final order for purposes of appeal.

18 (4) After an order granting or denying visitation has been  
19 entered under this section, a party may petition the court for the following:

20 (A) Contempt proceedings if one (1) party to the order  
21 fails to comply with the order;

22 (B) To address the issue of visitation based on a change  
23 in circumstances; or

24 (C) To address the need to add or modify restrictions or  
25 limitations to visitation previously awarded under this section.

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27 /s/ Wyatt, et al

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