

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2017

A N A C T

RELATING TO DOMESTIC RELATIONS - VISITATION RIGHTS

Introduced By: Senators Lynch Prata, Lombardi, DiPalma, Archambault, and Conley

Date Introduced: March 02, 2017

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 15-5-24.3 of the General Laws in Chapter 15-5 entitled "Divorce  
2 and Separation" is hereby amended to read as follows:

3 **15-5-24.3. Visitation rights -- Grandparents and siblings.**

4 (a) (1) The family court, upon miscellaneous petition of a grandparent for visitation rights  
5 with the petitioner's grandchild, and upon notice to both parents of the child ~~and notice to the~~  
6 ~~child~~, and after a hearing on the petition, may grant reasonable rights of visitation of the  
7 grandchild to the petitioner.

8 (2) The court, in order to grant the petitioner reasonable rights of visitation, must find and  
9 set forth in writing the following findings of fact:

10 (i) That it is in the best interest of the grandchild as determined on a case-by-case basis  
11 that the petitioner is granted visitation rights with the grandchild;

12 In considering whether it is in the child's best interests, the courts shall consider all the  
13 relevant factors including, but not limited to:

14 (A) The nature of the relationship between the child and the grandparent seeking  
15 visitation;

16 (B) The amount of time the grandparent and child spent together;

17 (C) The potential detriments and benefits to the child from granting visitation;

18 (D) The potential effect of granting visitation on the parent child relationship;

19 (E) The preferences of the grandchild who is of sufficient intelligence, understanding,

1 and experience to express a preference; and

2 (F) The reasons that the parent(s) believe that it is not in their child's best interests to have  
3 visitation with the grandparent(s).

4 (ii) That the petitioner is a fit and proper person to have visitation rights with the  
5 grandchild;

6 (iii) That the petitioner has repeatedly attempted to visit his or her grandchild during the  
7 thirty (30) days immediately preceding the date the petition was filed and was not allowed to visit  
8 the grandchild during the thirty (30) day period as a direct result of the actions of either, or both,  
9 parents of the grandchild;

10 (iv) That there is no other way the petitioner is able to visit his or her grandchild without  
11 court intervention; and

12 (v) That the petitioner, by clear and convincing evidence, has successfully rebutted the  
13 presumption that the parent's decision to refuse the grandparent visitation with the grandchild was  
14 reasonable.

15 (vi) The court may assess the reasonable attorney's fees incurred by the parent(s) to the  
16 grandparent(s) if the petition for visitation is denied.

17 (b) (1) The family court, upon miscellaneous petition of, or on behalf of, a sibling(s) for  
18 visitation rights with a minor brother(s), and/or step-brother(s), and/or sister(s), and/or step-  
19 sister(s) of the sibling(s) and upon notice to both parents of the minor ~~and notice to the minor~~, and  
20 after a hearing on the petition, may grant reasonable rights of visitation of the minor to a  
21 sibling(s).

22 (2) The court, in order to grant a sibling reasonable rights of visitation, must find and set  
23 forth in writing the following findings of fact:

24 (i) That it is in the best interest of the minor that a sibling(s) be granted visitation rights  
25 with the minor;

26 (ii) That the sibling(s) is a fit and proper person to have visitation rights with the minor;

27 (iii) That the sibling(s) was not allowed to visit the minor during the thirty (30) day  
28 period immediately preceding the date the petition was filed as a direct result of the actions of  
29 either, or both, parents or guardians of the minor;

30 (iv) That there is no other way the sibling(s) is able to visit the minor without court  
31 intervention; and

32 (v) That the sibling(s), by clear and convincing evidence, has successfully rebutted the  
33 presumption that the parental decision to refuse the visitation with the minor was reasonable.

34 (c) The court may issue all necessary orders relative to the visitation rights it has granted.

1 Once a petition has been granted, notice of any petition seeking a change in custody or visitation  
2 shall be served on the petitioner.

3 SECTION 2. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
A N A C T  
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- 1           This act would establish guidelines for the family court to use to decide petitions for
- 2           visitation by grandparents based on a best interest of the grandchild standard.
- 3           This act would take effect upon passage.

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