

# **WEST VIRGINIA LEGISLATURE**

## **2017 REGULAR SESSION**

**Introduced**

### **Senate Bill 286**

BY SENATORS CLINE , BOSO AND RUCKER

[Introduced February 14, 2017; Referred  
to the Committee on the Judiciary]

1 A BILL to amend and reenact §48-10-502 of the Code of West Virginia, 1931, as amended,  
2 relating to visitation rights of grandparents; and defining a term.

*Be it enacted by the Legislature of West Virginia:*

1 That §48-10-502 of the Code of West Virginia, 1931, as amended, be amended and  
2 reenacted to read as follows:

**ARTICLE 10. GRANDPARENT VISITATION.**

**§48-10-502. Factors to be considered in making a determination as to a grant of visitation  
to a grandparent.**

1 (a) An order for custody of a minor child may provide visitation rights for any grandparent  
2 of the child as the court, in its discretion, deems appropriate pursuant to subsection (b) of this  
3 section. As used in this section, "grandparent" includes a biological grandparent of a child  
4 adopted by a stepparent or a relative of the child where a substantial relationship exists between  
5 the grandparent and the child. Under no circumstances shall a biological grandparent of a child  
6 adopted by adoptive parents, neither of whom is related to the child and where parental rights of  
7 both biological parents have been terminated, be entitled to visitation rights.

8 (b) In making a determination on a motion or petition the court shall consider the following  
9 factors:

- 10 (1) The age of the child;
- 11 (2) The relationship between the child and the grandparent;
- 12 (3) The relationship between each of the child's parents or the person with whom the child  
13 is residing and the grandparent;
- 14 (4) The time which has elapsed since the child last had contact with the grandparent;
- 15 (5) The effect that such visitation will have on the relationship between the child and the  
16 child's parents or the person with whom the child is residing;
- 17 (6) If the parents are divorced or separated, the custody and visitation arrangement which  
18 exists between the parents with regard to the child;

19           (7) The time available to the child and his or her parents, giving consideration to such  
20 matters as each parent's employment schedule, the child's schedule for home, school and  
21 community activities, and the child's and parents' holiday and vacation schedule;

22           (8) The good faith of the grandparent in filing the motion or petition;

23           (9) Any history of physical, emotional or sexual abuse or neglect being performed,  
24 procured, assisted or condoned by the grandparent;

25           (10) Whether the child has, in the past, resided with the grandparent for a significant period  
26 or periods of time, with or without the child's parent or parents;

27           (11) Whether the grandparent has, in the past, been a significant caretaker for the child,  
28 regardless of whether the child resided inside or outside of the grandparent's residence;

29           (12) The preference of the parents with regard to the requested visitation; and

30           (13) Any other factor relevant to the best interests of the child.

NOTE: The purpose of this bill concerns visitation rights of grandparents. The bill defines a term.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.