

HOUSE BILL ANALYSIS

HB 2749

Title: An act relating to visitation.

Brief Description: Prescribing procedures for child visitation.

Sponsors: Representatives Wolfe, Kessler, Ogden, Dickerson, Cooper, Mason, Sullivan, Gardner and Lambert.

HOUSE COMMITTEE ON LAW & JUSTICE

Staff: Trudes Hutcheson (786-7384).

Background: Actions to establish paternity are governed by the Uniform Parentage Act. A child, the child's natural mother, a man alleged or alleging himself to be the father, a child's guardian or personal representative, the state, or any interested party may bring a civil action at any time for the purpose of determining paternity. There are certain situations when a man is presumed to be the natural father of a child (for example, if the child is born during the marriage or if genetic testing indicates a 98 percent or greater probability of paternity). The presumption may be rebutted only by clear, cogent, and convincing evidence.

The court order establishing paternity must also contain provisions concerning the duty of current and future support, the extent of any liability for past support, and any other matter that is in the best interest of the child. The court must consider all relevant factors listed in the child support schedule and standards. The court must also make residential provisions for minor children.

The act does not explicitly authorize the court to order visitation with the child to a person other than a parent.

Summary of Bill: A provision is added to the Uniform Parentage Act authorizing the court to order visitation to a person other than a parent under certain circumstances. The provision is substantially identical to the visitation provisions that apply to third-party custody proceedings and dissolution proceedings.

A person other than a parent or alleged parent may seek visitation with a child under a pending proceeding under the Uniform Parentage Act. A person other than a parent may petition for visitation with a child if a final order has been entered in a paternity action.

A petition or motion to intervene will be dismissed unless the person shows by clear and convincing evidence that a significant relationship exists with the child. If the petition or motion is dismissed for failure to establish the existence of a significant relationship, the person must pay reasonable attorneys' fees and costs to the parents, other custodian, or representative of the child who responds to the petition or motion.

The court may order visitation between the petitioner and the child if visitation is in the best interest of the child. The court may consider a variety of factors when determining the child's best interests.

Visitation with a grandparent is presumed to be in the child's best interests when a significant relationship has been shown to exist. This presumption may be rebutted by a preponderance of the evidence showing that visitation would endanger the child's physical, mental, or emotional health. If the court finds that reasonable visitation by a grandparent would be in the child's best interest, except for hostility between the grandparent and one or both of the parents or person with whom the child is residing, the court may set the matter for mediation.

Certain restrictions apply to a person seeking visitation if the person has certain criminal history. The court may order an investigation and report concerning the proposed visitation or may appoint a guardian ad litem for the child.

Visitation granted must be incorporated into the residential provisions for the child. The court may modify or terminate visitation upon a showing that the visitation is no longer in the best interest of the child.

Fiscal Note: Not requested.

Effective Date: Ninety days after adjournment of session in which bill is passed.