

SENATE BILL REPORT

HB 2750

As of February 25, 1998

Title: An act relating to visitation.

Brief Description: Providing a procedure for persons other than parents to intervene in custody proceedings in order to obtain visitation.

Sponsors: Representatives Wolfe, Kessler, Dickerson, Anderson, Gardner and Lambert.

Brief History:

Committee Activity: Law & Justice: 2/27/98.

SENATE COMMITTEE ON LAW & JUSTICE

Staff: Aldo Melchiori (786-7439)

Background: Under certain circumstances, a person other than a parent may bring an action to obtain custody of a child. The statute addressing visitation provides that: "Any person may petition the court for visitation rights at any time including, but not limited to, custody proceedings."

The Court of Appeals recently interpreted that provision to mean that a person other than a parent may petition for visitation only when a custody proceeding is pending, as opposed to "any time." The court based its interpretation on the parallel histories of the visitation statute in the third-party custody chapter and the visitation statute in the dissolution of marriages chapter.

In the chapter governing dissolutions, a person other than a parent may petition for visitation when the parents have commenced a dissolution, legal separation, or modification of a parenting plan proceeding. The petitioner must show that a significant relationship exists with the child and that the action is in the best interests of the child. Visitation with a grandparent is presumed to be in the child's best interests. This presumption may be rebutted by a preponderance of the evidence showing that visitation would endanger the child's physical, mental, or emotional health.

Summary of Bill: A person other than a parent may intervene in a pending dissolution, legal separation, declaration concerning the validity of marriage, or modification of a parenting plan proceeding for the purposes of seeking visitation with a child. A person other than a parent may petition for visitation only if a final order has been entered in a proceeding for dissolution, legal separation, or declaration concerning the validity of marriage.

The visitation provision in the third-party custody chapter is amended to be substantially identical to the visitation provision in the dissolution statutes.

Appropriation: None.

Fiscal Note: Not requested.

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