

HB 4472 S

FILED

2006 APR -3 P 3:30

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

# WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 2006



# ENROLLED

## House Bill No. 4472

(By Delegates Kominar, Varner and Craig)



Passed March 8, 2006

In Effect Ninety Days from Passage

FILED

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**E N R O L L E D**

**H. B. 4472**

(BY DELEGATES KOMINAR, VARNER AND CRAIG)

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[Passed March 8, 2006: in effect ninety days from passage.]

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AN ACT to amend and reenact §48-10-101, §48-10-301, §48-10-401, §48-10-501, §48-10-901, §48-10-1001, §48-10-1002 and §48-10-1101 of the Code of West Virginia, 1931, as amended, all relating to including family court jurisdiction in all proceedings concerning grandparent visitation.

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

That §48-10-101, §48-10-301, §48-10-401, §48-10-501, §48-10-901, §48-10-1001, §48-10-1002 and §48-10-1101 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

**ARTICLE 10. GRANDPARENT VISITATION.**

**§48-10-101. Legislative findings.**

- 1 The Legislature finds that circumstances arise where it is
- 2 appropriate for circuit courts or family courts of this state to
- 3 order that grandparents of minor children may exercise visita-
- 4 tion with their grandchildren. The Legislature further finds that

5 in such situations, as in all situations involving children, the  
6 best interests of the child or children are the paramount  
7 consideration.

**§48-10-301. Persons who may apply for grandparent visitation;  
venue.**

1 A grandparent of a child residing in this state may, by  
2 motion or petition, make application to the circuit court or  
3 family court of the county in which that child resides for an  
4 order granting visitation with his or her grandchild.

**§48-10-401. Motion for grandparent visitation when action for  
divorce, custody, legal separation, annulment or  
establishment of paternity is pending.**

1 (a) The provisions of this section apply to any pending  
2 actions for divorce, custody, legal separation, annulment or  
3 establishment of paternity.

4 (b) After the commencement of the action, a grandparent  
5 seeking visitation with his or her grandchild may, by motion,  
6 apply to the circuit court or family court for an order granting  
7 visitation. A grandparent moving for an order of visitation will  
8 not be afforded party status, but may be called as a witness by  
9 the court, and will be subject to cross-examination by the  
10 parties.

**§48-10-501. Necessary findings for grant of reasonable visitation  
to a grandparent.**

1 The circuit court or family court shall grant reasonable  
2 visitation to a grandparent upon a finding that visitation would  
3 be in the best interests of the child and would not substantially  
4 interfere with the parent-child relationship.

**§48-10-901. Effect of remarriage of the custodial parent.**

1       The remarriage of the custodial parent of a child does not  
2 affect the authority of a circuit court or family court to grant  
3 reasonable visitation to any grandparent.

**§48-10-1001. Continuing jurisdiction of circuit court or family court.**

1       Any circuit court or family court that grants visitation rights  
2 to a grandparent shall retain jurisdiction throughout the  
3 minority of the minor child with whom visitation is granted to  
4 modify or terminate such rights as dictated by the best interests  
5 of the minor child.

**§48-10-1002. Termination of grandparent visitation.**

1       A circuit court or family court shall, based upon a petition  
2 brought by an interested person, terminate any grant of the right  
3 of grandparent visitation upon presentation of a preponderance  
4 of the evidence that a grandparent granted visitation has  
5 materially violated the terms and conditions of the order of  
6 visitation.

**§48-10-1101. Attorney's fees; reasonable costs.**

1       In an action brought under the provisions of this article, a  
2 circuit court or family court may order payment of reasonable  
3 attorney's fees and costs based upon the equities of the posi-  
4 tions asserted by the parties to pay such fees and costs.

That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

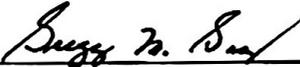
  
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Chairman Senate Committee

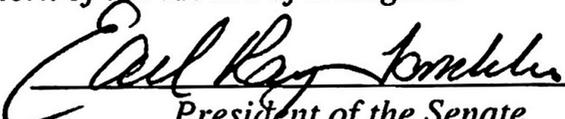
  
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Chairman House Committee

Originating in the House.

In effect ninety days from passage.

  
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Clerk of the Senate

  
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Clerk of the House of Delegates

  
\_\_\_\_\_  
President of the Senate

  
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Speaker of the House of Delegates

The within is approved this the 3rd  
day of April, 2006.

  
\_\_\_\_\_  
Governor

PRESENTED TO THE  
GOVERNOR

MAR 23 2006

Time 3:25 