

HB 4472 S

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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

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OFFICE WEST VIRGINIA
SECRETARY OF STATE

E N R O L L E D

H. B. 4472

(BY DELEGATES KOMINAR, VARNER AND CRAIG)

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

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.



Chairman Senate Committee



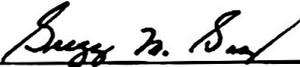
Chairman House Committee

Originating in the House.

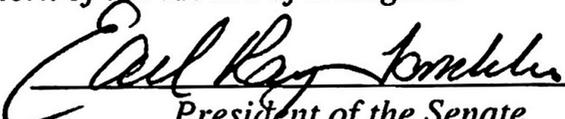
In effect ninety days from passage.



Clerk of the Senate



Clerk of the House of Delegates



President of the Senate



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 