

SB 405

FILED

2009 APR 30 PM 4:08

WEST VIRGINIA LEGISLATURE OFFICE OF THE WEST VIRGINIA SECRETARY OF STATE

**SEVENTY-NINTH LEGISLATURE
REGULAR SESSION, 2009**



ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 405

(SENATORS KESSLER, UNGER, MINARD
AND WHITE, *original sponsor*)

[Passed April 8, 2009; in effect ninety days from passage.]

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(SENATORS KESSLER, UNGER, MINARD AND WHITE, *original sponsors*)

[Passed April 8, 2009; in effect ninety days from passage.]

AN ACT to amend and reenact §48-10-401 and §48-10-402 of the Code of West Virginia, 1931, as amended, all relating to circuit and family court jurisdiction over petitions for grandparent visitation; and establishing exclusive family court jurisdiction over such petitions or motions except when the child or children with whom visitation is sought are the subject or subjects of a pending abuse or neglect petition in the circuit court.

Be it enacted by the Legislature of West Virginia:

That §48-10-401 and §48-10-402 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

ARTICLE 10. GRANDPARENT VISITATION.

§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
3 or establishment of paternity.

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

11 (c) Motions or petitions for grandparent visitation shall
12 be filed and heard in the family court except when an
13 abuse or neglect proceeding involving the child or children
14 is pending before the circuit court, in which case the
15 motion or petition shall be filed and heard in the circuit
16 court.

§48-10-402. Petition for grandparent visitation when action for divorce, custody, legal separation, annulment or establishment of paternity is not pending.

1 (a) The provisions of this section apply when no proceed-
2 ing for divorce, custody, legal separation, annulment or
3 establishment of paternity is pending.

4 (b) A grandparent may petition the family court for an
5 order granting visitation with his or her grandchild,
6 regardless of whether the parents of the child are married.
7 If the grandparent filed a motion for visitation in a
8 previous proceeding for divorce, custody, legal separation,
9 annulment or establishment of paternity, and a decree or
10 final order has issued in that earlier action, the grandpar-
11 ent may petition for visitation if the circumstances have

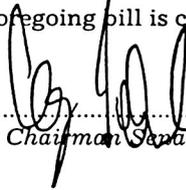
12 materially changed since the entry of the earlier order or
13 decree.

14 (c) When a petition under this section is filed, the matter
15 shall be styled "In re grandparent visitation of [peti-
16 tioner's(s') name(s)]".

17 (d) Motions or petitions for grandparent visitation shall
18 be filed and heard in the family court except when an
19 abuse or neglect proceeding involving the child or children
20 is pending before the circuit court, in which case the
21 motion or petition shall be filed and heard in the circuit
22 court.

A handwritten signature in black ink, appearing to be "John H. ...", located at the bottom of the page.

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



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Chairman Senate Committee



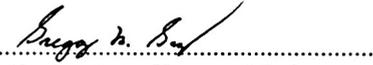
.....
Chairman House Committee

Originated in the Senate.

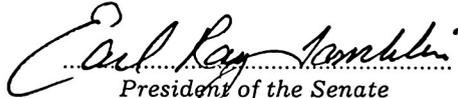
In effect ninety days from passage.



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Clerk of the Senate



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Clerk of the House of Delegates



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President of the Senate



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Speaker House of Delegates

The within is appended this the 30th
Day of April 2009.



.....
Governor

PRESENTED TO THE
GOVERNOR

APR 27 2009

Time 2:15pm