

By: Hughes

H.B. No. 3971

A BILL TO BE ENTITLED

AN ACT

relating to the rights of a grandparent, aunt or uncle.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 153.431 Subchapter H. is amended to read as follows:

Section 153.431. APPOINTMENT OF GRANDPARENT, AUNT, OR UNCLE AS MANAGING CONSERVATOR. If both of the parents of a child are deceased, the court may consider appointment of a parent, sister, or brother of a deceased parent as a managing conservator of the child, but that consideration does not alter or diminish the discretionary power of the court.

Section 153.432. SUIT FOR POSSESSION OR ACCESS BY GRANDPARENT. (a) A biological or adoptive grandparent may request possession of or access to a grandchild by filing:

(1) an original suit; or

(2) a suit for modification as provided by Chapter 156.

(b) A grandparent may request possession of or access to a grandchild in a suit filed for the sole purpose of requesting the relief, without regard to whether the appointment of a managing conservator is an issue in the suit.

Section 153.433. POSSESSION OF OR ACCESS TO GRANDCHILD. The court shall order reasonable possession of or access to a grandchild by a grandparent if:

1 (1) at the time the relief is requested, at least one
2 biological or adoptive parent of the child has not had that parent's
3 parental rights terminated;

4 (2) the grandparent requesting possession of or access
5 to the child overcomes the presumption that a parent acts in the
6 best interest of the parent's child by proving by a preponderance of
7 the evidence that denial of possession of or access to the child
8 would significantly impair the child's physical health or emotional
9 well-being; and

10 (3) the grandparent requesting possession of or access
11 to the child is a parent of a parent of the child and that parent of
12 the child:

13 (A) has been incarcerated in jail or prison
14 during the three-month period preceding the filing of the petition;

15 (B) has been found by a court to be incompetent;

16 (C) is dead; or

17 (D) does not have actual or court-ordered
18 possession of or access to the child.

19 SECTION 2. This Act takes effect September 1, 2007.