

By: Thompson of Harris

H.B. No. 391

A BILL TO BE ENTITLED

1 AN ACT
2 relating to a suit for possession of or access to a child by a
3 grandparent.

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

5 SECTION 1. Section 153.432, Family Code, is amended by
6 adding Subsection (d) to read as follows:

7 (d) An affidavit submitted under Subsection (c) is not
8 required to contain expert opinion.

9 SECTION 2. Section 153.433, Family Code, is amended to read
10 as follows:

11 Sec. 153.433. POSSESSION OF OR ACCESS TO GRANDCHILD. (a)
12 The court may order reasonable possession of or access to a
13 grandchild by a grandparent if:

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

17 (2) the grandparent requesting possession of or access
18 to the child overcomes the presumption that a parent acts in the
19 best interest of the parent's child by proving by a preponderance of
20 the evidence that denial of possession of or access to the child
21 would significantly impair the child's physical health or emotional
22 well-being[~~, and~~

23 [~~(3) the grandparent requesting possession of or~~
24 ~~access to the child is a parent of a parent of the child and that~~

1 ~~parent of the child:~~

2 ~~[(A) has been incarcerated in jail or prison~~
3 ~~during the three-month period preceding the filing of the petition;~~

4 ~~[(B) has been found by a court to be incompetent;~~

5 ~~[(C) is dead; or~~

6 ~~[(D) does not have actual or court-ordered~~
7 ~~possession of or access to the child].~~

8 (a-1) To meet the burden of proof under Subsection (a)(2), a
9 grandparent requesting possession of or access to a grandchild is
10 not required to offer expert testimony.

11 (b) An order granting possession of or access to a child by a
12 grandparent that is rendered over a parent's objections must state,
13 with specificity, that:

14 (1) at the time the relief was requested, at least one
15 biological or adoptive parent of the child had not had that parent's
16 parental rights terminated; and

17 (2) the grandparent requesting possession of or access
18 to the child has overcome the presumption that a parent acts in the
19 best interest of the parent's child by proving by a preponderance of
20 the evidence that the denial of possession of or access to the child
21 would significantly impair the child's physical health or emotional
22 well-being[~~, and~~

23 ~~[(3) the grandparent requesting possession of or~~
24 ~~access to the child is a parent of a parent of the child and that~~
25 ~~parent of the child.~~

26 ~~[(A) has been incarcerated in jail or prison~~
27 ~~during the three-month period preceding the filing of the petition;~~

1 ~~[(B) has been found by a court to be incompetent;~~
2 ~~[(C) is dead; or~~
3 ~~[(D) does not have actual or court-ordered~~
4 ~~possession of or access to the child].~~

5 SECTION 3. The change in law made by this Act applies only
6 to a suit affecting the parent-child relationship filed on or after
7 the effective date of this Act. A suit filed before that date is
8 governed by the law in effect on the date the suit was filed, and the
9 former law is continued in effect for that purpose.

10 SECTION 4. This Act takes effect September 1, 2013.