

By: Dutton, White, et al.

H.B. No. 575

Substitute the following for H.B. No. 575:

By: Dutton

C.S.H.B. No. 575

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. Part 2, Subchapter B, Chapter 107, Family Code,
6 is amended by adding Section 107.024 to read as follows:

7 Sec. 107.024. APPOINTMENT OF GUARDIAN AD LITEM IN SUIT FOR
8 POSSESSION OF OR ACCESS BY GRANDPARENT. (a) In a suit filed under
9 Section 153.432 requesting possession of or access to a grandchild,
10 the court shall appoint a guardian ad litem for the grandchild at
11 the request of a grandparent who is a party to the suit.

12 (b) Notwithstanding Section 107.002(e), a guardian ad litem
13 appointed under this section shall submit to the court a report
14 regarding the guardian ad litem's recommendations relating to:

15 (1) the grandparent's possession of or access to the
16 grandchild in accordance with Section 153.433; and

17 (2) the bases for the guardian ad litem's
18 recommendations.

19 SECTION 2. Section 153.432, Family Code, is amended by
20 adding Subsection (d) to read as follows:

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

23 SECTION 3. Section 153.433, Family Code, is amended to read
24 as follows:

1 Sec. 153.433. POSSESSION OF OR ACCESS TO GRANDCHILD. (a)

2 The court may order reasonable possession of or access to a
3 grandchild by a grandparent if:

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

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

13 ~~[(3) the grandparent requesting possession of or~~
14 ~~access to the child is a parent of a parent of the child and that~~
15 ~~parent of the child.~~

16 ~~[(A) has been incarcerated in jail or prison~~
17 ~~during the three-month period preceding the filing of the petition,~~

18 ~~[(B) has been found by a court to be incompetent,~~

19 ~~[(C) is dead, or~~

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

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

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

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

4 (2) the grandparent requesting possession of or access
5 to the child has overcome 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 the 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~~
11 ~~access to the child is a parent of a parent of the child and that~~
12 ~~parent of 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 4. The change in law made by this Act applies to a
20 suit affecting the parent-child relationship that is pending in a
21 trial court on the effective date of this Act or filed on or after
22 that date.

23 SECTION 5. This Act takes effect September 1, 2019.