

IN THE SENATE

SENATE BILL NO. 1122

BY JUDICIARY AND RULES COMMITTEE

AN ACT

1 RELATING TO GRANDPARENT VISITATION; REPEALING SECTION 32-719, IDAHO CODE,
2 RELATING TO GRANDPARENT VISITATION RIGHTS; AMENDING CHAPTER 7, TITLE
3 32, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 32-719, IDAHO CODE, TO
4 PROVIDE FOR PETITIONS FOR VISITATION WITH GRANDCHILDREN BY GRANDPAR-
5 ENTS AND GREAT-GRANDPARENTS, TO PROVIDE THAT THE COURT SHALL NOT GRANT
6 VISITATION OVER THE OBJECTION OF A FIT PARENT UNLESS THE PETITIONER
7 SHOWS SPECIFIED FACTORS BY CLEAR AND CONVINCING EVIDENCE, TO PROVIDE
8 FOR THE CONSIDERATION OF ALL RELEVANT FACTORS IN DETERMINING THE BEST
9 INTERESTS OF THE CHILD, TO PROVIDE FOR THE CONSIDERATION OF CERTAIN FAC-
10 TORS, TO PROVIDE FOR APPLICABILITY AND TO PROVIDE FOR THOSE CASES WHERE
11 THE CHILD IS THE SUBJECT OF A PENDING CHILD PROTECTION CASE.
12

13 Be It Enacted by the Legislature of the State of Idaho:

14 SECTION 1. That Section [32-719](#), Idaho Code, be, and the same is hereby
15 repealed.

16 SECTION 2. That Chapter 7, Title 32, Idaho Code, be, and the same is
17 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
18 ignated as Section 32-719, Idaho Code, and to read as follows:

19 32-719. VISITATION RIGHTS OF GRANDPARENTS AND GREAT-GRANDPAR-
20 ENTS. (1) A grandparent or great-grandparent may petition the district court
21 for reasonable visitation rights with respect to his or her grandchild or
22 great-grandchild under the provisions of this section if:

23 (a) The marital relationship between the parents of the child has been
24 severed by death, divorce or legal separation;

25 (b) The child's parents were not married when the child was born and
26 have not subsequently married and the petitioner is a maternal grand-
27 parent or maternal great-grandparent of the child;

28 (c) The child's parents were not married when the grandchild was born
29 and have not subsequently married:

30 (i) The petitioner is a paternal grandparent or paternal great-
31 grandparent of the child;

32 (ii) Paternity has been established by a court of competent ju-
33 risdiction or by acknowledgment of paternity pursuant to section
34 7-1106, Idaho Code; and

35 (iii) The rescission period specified in section 7-1106, Idaho Code,
36 has expired; or

37 (d) A court in another state has ordered visitation to the petitioner.

38 (2) The court shall not grant the petitioner reasonable rights of vis-
39 itation over the objection of a fit parent, unless the petitioner shows the
40 following by clear and convincing evidence:

- 1 (a) There is a pre-existing relationship between the petitioner and the
2 child such that it would be in the best interests of the child to con-
3 tinue the relationship;
- 4 (b) The petitioner is a fit and proper person to have visitation with
5 the child;
- 6 (c) Visitation by the petitioner with the child has been denied or un-
7 reasonably limited.
- 8 (3) In determining the best interests of the child, the court shall con-
9 sider all relevant factors including, but not limited to, the following:
- 10 (a) The love, affection and other emotional ties existing between the
11 petitioner and the child;
- 12 (b) The length and quality of the prior relationship between the child
13 and the petitioner the role performed by the petitioner and the existing
14 emotional ties of the child to the petitioner;
- 15 (c) The mental and physical health of all parties;
- 16 (d) The wishes and concerns of the child, if age twelve (12) years or
17 older;
- 18 (e) The willingness of the petitioner to encourage a close relationship
19 between the child and the parent or parents of the child, except as to a
20 parent found by the court to have abused or neglected the child;
- 21 (f) Any history of physical or emotional abuse or neglect, or sexual
22 abuse of any child by the parent, parents or petitioner;
- 23 (g) The wishes of the parents;
- 24 (h) Any other factor in the best interests of the child.
- 25 (4) The provisions of this section shall not apply where there has been
26 a termination of the rights of the biological parent to whom the petitioner
27 is related.
- 28 (5) If the child is the subject of a pending child protection case:
- 29 (a) No action may be filed under this section;
- 30 (b) Any visitation order pursuant to this section previously granted
31 shall be void.