

First Regular Session  
Sixty-third General Assembly  
STATE OF COLORADO

**REENGROSSED**

*This Version Includes All Amendments  
Adopted in the House of Introduction*

LLS NO. 01-0381.01 Beth Braby

**SENATE BILL 01-079**

**SENATE SPONSORSHIP**

Windels, and Phillips

**HOUSE SPONSORSHIP**

(None),

**Senate Committees**

Judiciary

**House Committees**

Health, Environment, Welfare, & Institutions

**A BILL FOR AN ACT**

101     **CONCERNING THE CREATION OF A MECHANISM FOR AUTHORIZING**  
102             **GRANDPARENT VISITATION TIME WITH GRANDCHILDREN IN**  
103             **CERTAIN LIMITED CIRCUMSTANCES, AND IN CONNECTION**  
104             **THEREWITH, ESTABLISHING STANDING REQUIREMENTS FOR**  
105             **GRANDPARENTS TO MEET PRIOR TO PETITIONING THE COURT**  
106             **FOR GRANDCHILD VISITATION TIME AND AUTHORIZING THE**  
107             **COURT TO GRANT GRANDCHILD VISITATION TO GRANDPARENTS**  
108             **WHO MEET CERTAIN STANDING REQUIREMENTS WHEN THERE IS**  
109             **A FINDING, BY CLEAR AND CONVINCING EVIDENCE, THAT THE**  
110             **VISITATION IS IN THE BEST INTERESTS OF THE CHILD, THAT IT IS**  
111             **NECESSARY TO PREVENT HARM OR POTENTIAL HARM TO THE**  
112             **CHILD, AND THAT SUCH VISITATION WILL NOT SIGNIFICANTLY**  
113             **INTERFERE WITH THE RELATIONSHIP BETWEEN THE CHILD AND**

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
*Capital letters indicate new material to be added to existing statute.*  
*Dashes through the words indicate deletions from existing statute.*

SENATE  
3rd Reading Unamended  
February 28, 2001

SENATE  
Amended 2nd Reading  
February 27, 2001

101  
102

**THE PARTY WITH LEGAL CUSTODY OF OR DECISION-MAKING  
RESPONSIBILITIES FOR THE CHILD.**

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**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)*

Authorizes a grandparent to initiate a cause of action seeking reasonable grandchild visitation time when a grandchild resides in Colorado but neither a child custody case nor a case concerning the allocation of parental responsibilities with respect to the child is or has been filed if:

- There is or has been a significant beneficial relationship between the grandparent and the child; and
- The party with legal custody of or decision-making responsibilities for the child has unreasonably denied the grandparent opportunity to visit the child.

States that when there is or has been a child custody case or a case concerning the allocation of parental responsibilities with respect to a child in Colorado, a grandparent shall file a motion to intervene, together with a motion for grandchild visitation and an affidavit setting forth the facts supporting the requested order, with the district court of the county in which the child resides or, if the child resides in Denver, with the juvenile court of the city and county of Denver ("juvenile court").

States that when a child resides in Colorado but neither a child custody case nor a case concerning the allocation of parental responsibilities with respect to a child has been filed, a grandparent may file a petition for grandchild visitation and an affidavit setting forth the facts supporting the requested order with the district court of the county in which the child resides or, if the child resides in Denver, with the juvenile court.

Requires the petitioning grandparent to give notice and a copy of his or her motions and affidavit to the party with legal custody of or decision-making responsibilities for the child.

Authorizes the court to enter an order granting visitation to the grandparent upon making certain findings if neither the petitioning grandparent of the child nor the party with legal custody of or decision-making responsibilities for the child requests a hearing.

Requires the court to hold a hearing if the court determines, on the basis of the petition and affidavits filed, that there is or has been a

significant beneficial relationship between the grandparent and the child and that the party with legal custody of or decision-making responsibilities for the child has unreasonably denied the grandparent opportunity to visit the child.

Prior to entering any order granting grandchild visitation time, requires the court to find, by clear and convincing evidence, the following:

- That the visitation is in the best interests of the child; and
- That an order granting grandchild visitation time will not significantly interfere with the relationship between the child and the party with legal custody of or parental responsibilities for the child.

Clarifies that orders modifying or terminating parenting time do not affect visitation time granted to a grandparent. Allows a district court or juvenile court magistrate to preside over a grandchild visitation proceeding, but states that if there is any objection, such proceeding shall be heard by a district court or juvenile court judge.

Requires petitions and motions filed pursuant to this act to be filed consistently with the provisions of the "Uniform Child-custody Jurisdiction and Enforcement Act".

Modifies the definition of grandparent to include a great-grandparent.

Makes conforming amendments.

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1 *Be it enacted by the General Assembly of the State of Colorado:*  
2           **SECTION 1.** 19-1-117, Colorado Revised Statutes, is amended  
3 to read:  
4           **19-1-117. Visitation time of grandparents.** (1) Any grandparent  
5 of a child may ~~in the manner set forth in this section,~~ seek a court order  
6 granting the grandparent reasonable grandchild visitation ~~rights~~ TIME  
7 when there is or has been a child custody case or a case concerning the  
8 allocation of parental responsibilities relating to that child PURSUANT TO  
9 THE PROCEDURES OF THIS SECTION. Because cases arise that do not  
10 directly deal with child custody or the allocation of parental  
11 responsibilities but nonetheless have an impact on the custody of or

1 parental responsibilities with respect to a child, for the purposes of this  
2 section, a "case concerning the allocation of parental responsibilities with  
3 respect to a child" includes any of the following, whether or not child  
4 custody was or parental responsibilities were specifically an issue:

5 (a) That the marriage of the child's parents has been declared  
6 invalid or has been dissolved by a court or that a court has entered a  
7 decree of legal separation with regard to such marriage;

8 (b) That legal custody of or parental responsibilities with respect  
9 to the child have been given or allocated to a party other than the child's  
10 parent or that the child has been placed outside of and does not reside in  
11 the home of the child's parent, excluding any child who has been placed  
12 for adoption or whose adoption has been legally finalized; or

13 (c) That the child's parent, who is the child of the grandparent, has  
14 died.

15 (1.5) ANY GRANDPARENT WHO IS NOT AUTHORIZED TO PETITION  
16 THE COURT FOR GRANDCHILD VISITATION PURSUANT TO SUBSECTION (1) OF  
17 THIS SECTION MAY SEEK A COURT ORDER GRANTING THE GRANDPARENT  
18 REASONABLE GRANDCHILD VISITATION TIME IF:

19 (a) THERE IS OR HAS BEEN A SIGNIFICANT BENEFICIAL  
20 RELATIONSHIP FOR THE CHILD BETWEEN THE GRANDPARENT AND THE  
21 CHILD; AND

22 (b) THE PARTY WITH LEGAL CUSTODY OF OR DECISION-MAKING  
23 RESPONSIBILITIES FOR THE CHILD HAS UNREASONABLY DENIED THE  
24 GRANDPARENT OPPORTUNITY TO VISIT THE CHILD.

25 (2) (a) WHEN THERE IS OR HAS BEEN A CHILD CUSTODY CASE OR A  
26 CASE CONCERNING THE ALLOCATION OF PARENTAL RESPONSIBILITIES WITH  
27 RESPECT TO A CHILD WHOSE HOME STATE, AS DEFINED IN SECTION

1 14-13-102 (7), C.R.S., IS COLORADO, a party GRANDPARENT seeking a  
2 grandchild visitation order ~~shall submit, together with his or her motion~~  
3 ~~for visitation, to the district court for the district in which the child resides~~  
4 ~~an affidavit setting forth facts supporting the requested order and~~ SHALL  
5 FILE A MOTION TO INTERVENE IN THE CUSTODY CASE OR THE CASE  
6 CONCERNING PARENTAL RESPONSIBILITY, TOGETHER WITH A MOTION FOR  
7 GRANDCHILD VISITATION AND AN AFFIDAVIT SETTING FORTH FACTS  
8 SUPPORTING THE REQUESTED ORDER, WITH THE DISTRICT COURT OF THE  
9 COUNTY IN WHICH THE CHILD RESIDES OR, IF THE CHILD RESIDES IN  
10 DENVER, WITH THE JUVENILE COURT OF THE CITY AND COUNTY OF  
11 DENVER, IF APPROPRIATE.

12 (b) WHEN A CHILD'S HOME STATE, AS DEFINED IN SECTION  
13 14-13-102 (7), IS COLORADO BUT NEITHER A CHILD CUSTODY CASE NOR A  
14 CASE CONCERNING THE ALLOCATION OF PARENTAL RESPONSIBILITIES WITH  
15 RESPECT TO A CHILD IS OR HAS BEEN FILED IN COLORADO, A GRANDPARENT  
16 SEEKING A GRANDCHILD VISITATION ORDER MAY FILE A PETITION FOR  
17 GRANDCHILD VISITATION AND AN AFFIDAVIT SETTING FORTH FACTS  
18 SUPPORTING THE REQUESTED ORDER WITH THE DISTRICT COURT OF THE  
19 COUNTY IN WHICH THE CHILD RESIDES OR, IF THE CHILD RESIDES IN  
20 DENVER, WITH THE JUVENILE COURT OF THE CITY AND COUNTY OF  
21 DENVER, IF APPROPRIATE.

22 (2.5) (a) WHEN A GRANDPARENT PETITIONS THE COURT PURSUANT  
23 TO SUBSECTION (1) OF THIS SECTION, THE PETITIONING GRANDPARENT shall  
24 give notice, together with a copy of his or her MOTIONS AND affidavit, to  
25 the party who has legal custody of the child or to the party with parental  
26 DECISION-MAKING responsibilities as determined by a court pursuant to  
27 article 10 of title 14, C.R.S. The party with legal custody or parental

1 DECISION-MAKING responsibilities as determined by a court pursuant to  
2 article 10 of title 14, C.R.S., may file opposing affidavits. If neither party  
3 requests a hearing, the court shall enter an order granting grandchild  
4 visitation rights TIME to the petitioning grandparent only upon a finding  
5 that the visitation is in the best interests of the child. A hearing shall be  
6 held if either party so requests or if it appears to the court that it is in the  
7 best interests of the child that a hearing be held. At the hearing, parties  
8 submitting affidavits shall be allowed an opportunity to be heard. If, at  
9 the conclusion of the hearing, the court finds it is in the best interests of  
10 the child to grant grandchild visitation rights TIME to the petitioning  
11 grandparent, the court shall enter an order granting such rights TIME.

12 (b) WHEN A GRANDPARENT PETITIONS THE COURT PURSUANT TO  
13 SUBSECTION (1.5) OF THIS SECTION, THE PETITIONING GRANDPARENT  
14 SHALL GIVE NOTICE, TOGETHER WITH A COPY OF HIS OR HER MOTIONS AND  
15 AFFIDAVIT, TO THE PARTY WHO HAS LEGAL CUSTODY OF THE CHILD OR TO  
16 THE PARTY WITH DECISION-MAKING RESPONSIBILITIES AS DETERMINED BY  
17 A COURT PURSUANT TO ARTICLE 10 OF TITLE 14, C.R.S. THE PARTY WITH  
18 LEGAL CUSTODY OR DECISION-MAKING RESPONSIBILITIES AS DETERMINED  
19 BY A COURT PURSUANT TO ARTICLE 10 OF TITLE 14, C.R.S., MAY FILE  
20 OPPOSING AFFIDAVITS. IF NEITHER PARTY REQUESTS A HEARING, THE  
21 COURT MAY, BASED UPON THE PLEADINGS AND AFFIDAVITS, ENTER AN  
22 ORDER GRANTING GRANDCHILD VISITATION TIME TO THE PETITIONING  
23 GRANDPARENT ONLY UPON A FINDING, BY CLEAR AND CONVINCING  
24 EVIDENCE, THAT THE VISITATION IS IN THE BEST INTERESTS OF THE CHILD,  
25 THAT IT IS NECESSARY TO PREVENT HARM OR POTENTIAL HARM TO THE  
26 CHILD, AND THAT SUCH VISITATION WILL NOT SIGNIFICANTLY INTERFERE  
27 WITH THE RELATIONSHIP BETWEEN THE CHILD AND THE PARTY WITH LEGAL

1 CUSTODY OF OR DECISION-MAKING RESPONSIBILITIES FOR THE CHILD.  
2 HOWEVER, A HEARING SHALL BE HELD, WHEN THE COURT IS UNABLE TO  
3 DETERMINE WHETHER A GRANDPARENT HAS STANDING PURSUANT TO  
4 SUBSECTION (1.5) OF THIS SECTION WITHOUT A HEARING, IF EITHER PARTY  
5 SO REQUESTS, OR IF IT APPEARS TO THE COURT THAT A HEARING WOULD BE  
6 IN THE BEST INTERESTS OF THE CHILD; EXCEPT THAT, WHEN A PARTY  
7 REQUESTS A HEARING, THE COURT MAY ORDER MEDIATION PURSUANT TO  
8 SECTION 13-22-311, C.R.S., PRIOR TO HOLDING A HEARING ON THE  
9 MATTER. AT THE HEARING, PARTIES SUBMITTING AFFIDAVITS SHALL BE  
10 ALLOWED AN OPPORTUNITY TO BE HEARD. IF, AT THE CONCLUSION OF THE  
11 HEARING, THE COURT FINDS, BY CLEAR AND CONVINCING EVIDENCE, THAT  
12 IT IS IN THE BEST INTERESTS OF THE CHILD TO GRANT GRANDCHILD  
13 VISITATION TIME TO THE PETITIONING GRANDPARENT, THAT IT IS  
14 NECESSARY TO PREVENT HARM OR POTENTIAL HARM TO THE CHILD, AND  
15 THAT SUCH VISITATION WILL NOT SIGNIFICANTLY INTERFERE WITH THE  
16 RELATIONSHIP BETWEEN THE CHILD AND THE PARTY WITH LEGAL CUSTODY  
17 OF OR DECISION-MAKING RESPONSIBILITIES FOR THE CHILD, THE COURT  
18 MAY ENTER AN ORDER GRANTING SUCH TIME.

19 \_\_\_\_\_  
20 (3) No grandparent may file an affidavit seeking an order granting  
21 grandchild visitation ~~rights~~ TIME WITH THE SAME CHILD more than once  
22 every two years absent a showing of good cause. If the court finds there  
23 is good cause to file more than one such affidavit, it shall allow such  
24 additional affidavit to be filed and shall consider it. The court may order  
25 reasonable attorney fees to the prevailing party. The court may not make  
26 any order restricting the movement of the child if such restriction is solely  
27 for the purpose of allowing the grandparent the opportunity to exercise

1 his OR HER grandchild visitation ~~rights~~ TIME.

2 (4) The court ~~may make~~ SHALL HAVE AUTHORITY TO ENTER an  
3 order modifying or terminating grandchild visitation ~~rights~~ TIME  
4 ~~whenever such order would serve the best interests of the child~~  
5 CONSISTENT WITH THE APPROPRIATE STANDARD IN SUBSECTION (2.5) OF  
6 THIS SECTION.

7 (5) Any order MODIFYING, TERMINATING, granting, or denying  
8 parenting time rights to the parent of a child shall not affect visitation  
9 ~~rights~~ TIME granted to a grandparent pursuant to this section.

10 (6) A DISTRICT COURT OR JUVENILE COURT JUDGE OR MAGISTRATE  
11 MAY PRESIDE OVER A GRANDCHILD VISITATION PROCEEDING; EXCEPT  
12 THAT, IF ANY PARTY OBJECTS TO A MAGISTRATE PRESIDING OVER SUCH  
13 PROCEEDING, SUCH CASE SHALL BE HEARD BY A DISTRICT COURT OR  
14 JUVENILE COURT JUDGE.

15 (7) NOTWITHSTANDING THE PROCEDURES OUTLINED IN THIS  
16 SECTION, A PETITION OR A MOTION FILED PURSUANT TO THIS SECTION  
17 SHALL BE FILED CONSISTENTLY WITH THE PROVISIONS OF THE "UNIFORM  
18 CHILD-CUSTODY JURISDICTION AND ENFORCEMENT ACT", ARTICLE 13 OF  
19 TITLE 14, C.R.S.

20 **SECTION 2.** 19-1-103 (56) (a), Colorado Revised Statutes, is  
21 amended to read:

22 **19-1-103. Definitions.** As used in this title or in the specified  
23 portion of this title, unless the context otherwise requires:

24 (56) (a) "Grandparent" means a person who is the parent OR  
25 GRANDPARENT of a child's father or mother, who is related to the child by  
26 blood, in whole or by half, adoption, or marriage.

27 **SECTION 3.** 13-5-201, Colorado Revised Statutes, is amended



1 BY THE ADDITION OF A NEW SUBSECTION to read:

2 **13-5-201. District court magistrates.** (2.7) DISTRICT COURT  
3 MAGISTRATES SHALL HAVE THE POWER TO PRESIDE OVER A GRANDCHILD  
4 VISITATION PROCEEDING PURSUANT TO THE PROCEDURES IN SECTION  
5 19-1-117, C.R.S.

6 **SECTION 4.** 13-5-301 (3) (g), Colorado Revised Statutes, is  
7 amended, and the said 13-5-301 (3) is further amended BY THE  
8 ADDITION OF A NEW PARAGRAPH, to read:

9 **13-5-301. Family law magistrates - qualifications - duties.**

10 (3) Subject to the provision that no magistrate may preside in any trial by  
11 jury, family law magistrates shall have the following duties, powers, and  
12 authority:

13 (g) To solemnize marriages pursuant to the procedures in section  
14 14-2-109, C.R.S.; AND

15 (h) TO CONDUCT GRANDCHILD VISITATION PROCEEDINGS  
16 PURSUANT TO THE PROCEDURES IN SECTION 19-1-117, C.R.S.

17 **SECTION 5. Effective date - applicability.** (1) This act shall  
18 take effect September 1, 2001, unless a referendum petition is filed during  
19 the ninety-day period after final adjournment of the general assembly that  
20 is allowed for submitting a referendum petition pursuant to article V,  
21 section 1 (3) of the state constitution. If such a referendum petition is  
22 filed against this act or an item, section, or part of this act within such  
23 period, then the act, item, section, or part, if approved by the people, shall  
24 take effect on the date of the official declaration of the vote thereon by  
25 proclamation of the governor.

26 (2) The provisions of this act shall apply to motions or petitions  
27 concerning grandchild visitation filed on or after the applicable effective

1 date of this act.