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CHAPTER 587

H.B. No. 2328

AN ACT

relating to grandparent possession of and access to natural and adoptive grandchildren.

*Be it enacted by the Legislature of the State of Texas:*

SECTION 1. Section 14.03, Family Code, is amended by amending Subsections (e) and (f), redesignating Subsections (g) and (h) as (h) and (i), and adding a new Subsection (g) to read as follows:

(e) In a suit affecting the parent-child relationship, including a suit brought for the sole purpose of seeking the relief authorized by this subsection and including a proceeding for the modification of a previous order, and without regard to whether or not the appointment of a managing conservator is an issue in the suit, the court may issue and enforce orders granting to a *biologic or adoptive* grandparent of the child reasonable access to the child if a parent of the child is, at the time that the relief is requested, a *biologic or adoptive* [natural] parent of the child, if access to the grandparent is in the best interest of the child, and if:

(1) the grandparent seeking access to the child is a parent of a parent of the child and that parent of the child has been incarcerated in jail or prison during the three-month period preceding the filing of the petition or has been found by a court to be incompetent or is dead; or

(2) the parents of the child are divorced or have been living apart for the three-month period preceding the filing of the petition or a suit for the dissolution of the parents' marriage is pending; or

(3) the child has been abused or neglected by a parent of the child; or

(4) the child has been adjudicated to be a child in need of supervision or a delinquent child under Title 3 of this code; or

(5) the grandparent seeking access to the child is the parent of a person whose parent-child relationship with the child has been terminated by court decree; or

(6) the child has resided with the grandparent seeking access to the child for at least six months within the 24-month period preceding the filing of the petition.

(f) *To obtain an order authorized by Subsection (e) of this section, a grandparent may:*

(1) *initiate an original suit affecting the parent-child relationship;*

(2) *file a petition for further action in the court having jurisdiction over the child; or*

(3) *file a motion to modify a prior order of the court having jurisdiction over the child. [If the court finds that it is in the best interests of the child as provided in Section 14.07 of this code, the court may grant reasonable access rights to either the maternal or paternal grandparents of the child; and to either the natural maternal or paternal grandparents of the child whose parent-child relationship has been terminated or who has been adopted before or after the effective date of this code. This relief may not be granted unless one of the child's legal parents at the time the relief is requested is the child's natural parent. The court may issue any necessary orders to enforce the decree.]*

(g) *Subsection (e) of this section does not apply if:*

(1) *the grandparent seeking possession of or access to the child is a parent of a person whose parental rights with the child have been terminated by court order or by death; and*

(2) *the child has been adopted by a person other than the spouse of the former spouse of the parent whose rights have terminated.*

(h) [(g)] *In any decree providing for possessory interests in a child the court may, if it finds that it is in the best interests of the child because of a history of conflicts and difficulties in resolving the issue of conservatorship or possession of or access to the child, order any party to participate in counseling with persons appointed or approved by the court for the purpose of facilitating compliance with the court order. The court may order the party to pay the costs of counseling.*

(i) [(h)] *On the motion of any party or on the court's own motion, the court may order any person who has possessory interests in a child, and who the court finds may violate the court order relating to the possessory interests in a child, to file a bond or to place security with the court in an amount set by the court and conditioned on the faithful performance of the person's duties and obligations under the court order with respect to the possessory interests in a child.*

SECTION 2. Section 15.07, Family Code, is amended to read as follows:

Sec. 15.07. EFFECT OF DECREE. A decree terminating the parent-child relationship divests the parent and the child of all legal rights, privileges, duties, and powers, with respect to each other, except that the child retains the right to inherit from and through its divested parent unless the court otherwise provides. Nothing in this chapter shall preclude or affect the rights of a *biologic or adoptive* [natural] maternal or paternal grandparent to reasonable access under Sections 14.03(e), (f), and (g) [Section 14.03(d)] of this code.

SECTION 3. Section 16.09(d), Family Code, is amended to read as follows:

(d) Nothing in this chapter shall preclude or affect the rights of a *biologic or adoptive* [natural] maternal or paternal grandparent to reasonable access under *Sections 14.03(e), (f), and (g)* [~~Section 14.03(d)~~] of this code.

SECTION 4. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Passed by the House on May 22, 1987, by the following vote: Yeas 148, Nays 0, 1 present, not voting; that the House refused to concur in Senate amendments to H.B. No. 2328 on May 31, 1987, and requested the appointment of a conference committee to consider the differences between the two houses; and that the House adopted the conference committee report on H.B. No. 2328 on June 1, 1987, by a non-record vote. Passed by the Senate, with amendments, on May 30, 1987, by the following vote: Yeas 31, Nays 0; at the request of the House, the Senate appointed a conference committee to consider the differences between the two houses; and that the Senate adopted the conference committee report on H.B. No. 2328 on June 1, 1987, by the following vote: Yeas 31, Nays 0.

Approved June 18, 1987.

Effective Aug. 31, 1987, 90 days after date of adjournment.

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