

WEST VIRGINIA LEGISLATURE

2020 REGULAR SESSION

Introduced

House Bill 4830

BY DELEGATES LITTLE, CRISS, FOSTER, HANNA, D.

JEFFRIES AND PACK

[Introduced February 11, 2020; Referred to the
Committee on Senior, Children, and Family Issues
then the Judiciary]

1 A BILL to amend and reenact §48-10-502 of the Code of West Virginia, 1931, as amended,
 2 relating to modifying the factors to be used by the court in making a determination as to
 3 whether to grant visitation to a grandparent.

Be it enacted by the Legislature of West Virginia:

ARTICLE 10. GRANDPARENT VISITATION.

§48-10-502. Factors to be considered in making a determination as to a grant of visitation to a grandparent.

1 In making a determination on a motion or petition the court shall consider the following
 2 factors:

- 3 (1) The age of the child;
- 4 (2) The relationship between the child and the grandparent;
- 5 ~~(3) The relationship between each of the child's parents or the person with whom the child~~
 6 ~~is residing and the grandparent~~
- 7 (3) Whether the child has, in the past, resided with the grandparent for a significant period
 8 or periods of time, with or without the child's parent or parents;
- 9 ~~(4) The time which has elapsed since the child last had contact with the grandparent~~
- 10 (4) Whether the grandparent has, in the past, been a significant caretaker for the child,
 11 regardless of whether the child resided inside or outside of the grandparent's residence;
- 12 ~~(5) The effect that such visitation will have on the relationship between the child and the~~
 13 ~~child's parents or the person with whom the child is residing~~
- 14 (5) If there has been little to no contact between the grandparent and child, the effort put
 15 forth by the grandparent to establish contact and a relationship with the child;
- 16 (6) The preference of the child, if old enough to express a meaningful preference;
- 17 (7) The motivation of the parties involved and their capacities to give the child love,
 18 affection, and guidance;
- 19 (8) The preference of the parents with regard to the requested visitation;

20 (9) The capacity of the parent and grandparent to cooperate or to learn to cooperate in
 21 child care;

22 (10) Methods of assisting cooperation and resolving disputes and each parent or
 23 grandparent's willingness to use those methods;

24 ~~(6)~~ (11) If the parents are divorced or separated, the custody and visitation arrangement
 25 which exists between the parents with regard to the child;

26 ~~(7)~~ (12) The time available to the child and his or her parents, giving consideration to such
 27 matters as each parent's employment schedule, the child's schedule for home, school and
 28 community activities, and the child's and parents' holiday and vacation schedule;

29 ~~(8)~~ (13) The good faith of the grandparent in filing the motion or petition;

30 ~~(9)~~ (14) Any history of physical, emotional or sexual abuse or neglect being performed,
 31 procured, assisted or condoned by the grandparent; and

32 ~~(10) Whether the child has, in the past, resided with the grandparent for a significant period~~
 33 ~~or periods of time, with or without the child's parent or parents;~~

34 ~~(11) Whether the grandparent has, in the past, been a significant caretaker for the child,~~
 35 ~~regardless of whether the child resided inside or outside of the grandparent's residence;~~

36 ~~(12) The preference of the parents with regard to the requested visitation; and~~

37 ~~(13)~~ (15) Any other factor relevant to the best interests of the child.

NOTE: The purpose of this bill is to modify the factors the court will use to determine grandparent visitation.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.