

Senate Bill No. 614

(By Senators Barnes, D. Hall, Laird, Tucker, Stollings, Cookman
and Wells)

[Introduced February 17, 2014; referred to the Committee on the
Judiciary.]

A BILL to amend and reenact §48-10-502 of the Code of West
Virginia, 1931, as amended, relating to grandparent
visitation; and determining when a grandparent has standing
for custody of a child.

Be it enacted by the Legislature of West Virginia:

That §48-10-502 of the Code of West Virginia, 1931, as
amended, be amended and reenacted to read as follows:

ARTICLE 10. GRANDPARENT VISITATION.

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

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

- 1 (1) The age of the child;
- 2 (2) The relationship between the child and the grandparent;
- 3 (3) The relationship between each of the child's parents or
4 the person with whom the child is residing and the grandparent;
- 5 (4) The time which has elapsed since the child last had
6 contact with the grandparent;
- 7 (5) The effect that such visitation will have on the
8 relationship between the child and the child's parents or the
9 person with whom the child is residing;
- 10 (6) If the parents are divorced or separated, the custody and
11 visitation arrangement which exists between the parents with regard
12 to the child;
- 13 (7) The time available to the child and his or her parents,
14 giving consideration to such matters as each parent's employment
15 schedule, the child's schedule for home, school and community
16 activities, and the child's and parents' holiday and vacation
17 schedule;
- 18 (8) The good faith of the grandparent in filing the motion or
19 petition;
- 20 (9) Any history of physical, emotional or sexual abuse or
21 neglect being performed, procured, assisted or condoned by the
22 grandparent;
- 23 (10) Whether the child has, in the past, resided with the
24 grandparent for a significant period or periods of time, with or

1 without the child's parent or parents;

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

5 (12) The preference of the parents with regard to the
6 requested visitation; and

7 (13) Any other factor relevant to the best interests of the
8 child: Provided, That when a child has resided inside the
9 grandparent's residence for a period of five or more years and the
10 grandparent is, or has been a significant caretaker for the child
11 during that time, notwithstanding any other provision of this code
12 or law to the contrary, the grandparent has equal standing with a
13 natural parent or guardian in regard to custody of the child.

NOTE: The purpose of this bill is to provide a standard for determining when a grandparent has standing for custody of a child.

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