

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
92nd General Assembly
Regular Session, 2019

A Bill

HOUSE BILL 1383

By: Representatives Rushing, Brown, Cavanaugh, Coleman, A. Davis, M. Gray, Hollowell, Lynch, Petty,
Richmond, Rye, Sorvillo, Vaught

By: Senator A. Clark

For An Act To Be Entitled

AN ACT TO GRANT VISITATION RIGHTS TO GRANDPARENTS
WHEN A PARENT OF A CHILD IS DECEASED; AND FOR OTHER
PURPOSES.

Subtitle

TO GRANT VISITATION RIGHTS TO
GRANDPARENTS WHEN A PARENT OF A CHILD IS
DECEASED.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code Title 9, Chapter 13, Subchapter 1, is amended to add an additional section to read as follows:

9-13-111. Visitation rights of grandparent or great-grandparent when parent of child is deceased, missing, or in permanent vegetative state – Definitions.

(a) For the purposes of this section:

(1) "Child" means a minor under eighteen (18) years of age who is the:

(A) Grandchild of the petitioner; or

(B) Great-grandchild of the petitioner;

(2)(A) "Emotional abuse" means subjecting or exposing a child to behavior that may result in psychological trauma, including anxiety, chronic depression, or post-traumatic stress disorder.

(B) "Emotional abuse" means confinement, isolation, verbal



assault, humiliation, intimidation or any other conduct that may diminish the child's sense of identity;

(3) "Emotional distress" means a highly unpleasant emotional reaction such as anguish, grief, fright, humiliation, or fury;

(4) "Emotional neglect" means the failure to provide adequate nurturing and affection to a child or the exposure of a child to domestic violence;

(5) "Harm" means causing significant risk to the safety, welfare, or wellbeing of a child;

(6) "Parent" means a biological parent, adoptive parent, stepparent, legal guardian, or other legal custodian of a child;

(7) "Petitioner" means the parent or grandparent of a person who is:

(A) A deceased parent of a child;

(B) A missing parent of a child; or

(C) In a permanent vegetative state and who is the parent of a child; and

(8) "Reasonable visitation" means a period of time approved by the court and agreeable to all parties involved and that is no less than one (1) week per year and no more than four (4) weeks per year.

(b) A petitioner may petition the court for reasonable visitation with respect to his or her grandchild or great-grandchild upon a finding that the visitation is in the best interest of the child.

(c) If the parent of a child objects to the petition for reasonable visitation, the parent of the child shall prove by a preponderance of the evidence that the:

(1) Petitioner has not established a significant and viable relationship with the child;

(2) Petitioner does not have the capacity to provide love, affection, emotional support, and guidance to the child;

(3) Loss of the relationship between the petitioner and the child is not likely to:

(A) Harm the child;

(B) Cause emotional distress to the child;

(C) Result in the emotional abuse of the child; or

(D) Result in the emotional neglect of the child; and

(4) Petitioner has not demonstrated a willingness to cooperate with the parent of the child if the court grants visitation with the child.

(d) An order granting or denying visitation to a petitioner under this section shall be in writing and shall state all factors considered by the court in its decision to grant or deny visitation.

(e) The court may require the petitioner to pay the opposing party's attorney's fee if the court determines the case to be frivolous and without merit.

(f) This section does not apply to dependency-neglect proceedings conducted under the Arkansas Juvenile Code of 1989, § 9-27-301 et seq.