~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

February 17, 2010

**S. 981**

Introduced by Senators Rose and Knotts

S. Printed 2/17/10--S.

Read the first time January 12, 2010.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (S. 981) to amend Section 63‑3‑530, Code of Laws of South Carolina, 1976, relating to the jurisdiction of the family court, including jurisdiction to order visitation for grandparents, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, by striking all after the enacting language, and inserting therein the following:

/ SECTION 1. Section 63‑3‑530(A)(33) of the 1976 Code, as added by Act 361 of 2008, is amended to read:

“(33) ~~to order periods of visitation for the grandparents of a minor child where either or both parents of the minor child is or are deceased, or are divorced, or are living separate and apart in different habitats regardless of the existence of a court order or agreement, and upon a written finding that the visitation rights would be in the best interests of the child and would not interfere with the parent/child relationship. In determining whether to order visitation for the grandparents, the court shall consider the nature of the relationship between the child and his grandparents prior to the filing of the petition or complaint;~~ to order visitation for the grandparent of a minor child where either or both parents of the minor child is or are deceased, or are divorced, or are living separate and apart in different habitats, if the court finds that the child’s parents or guardians are depriving the grandparent of the opportunity to visit with the child and:

(a) the court finds by clear and convincing evidence that the child’s parents or guardians are unfit; or

(b) the court finds by clear and convincing evidence that there are compelling circumstances to overcome the presumption that the parental decision is in the child’s best interest.

The judge presiding over this matter may award attorney’s fees and costs to the prevailing party.

For purposes of this item, ‘grandparent’ means the natural or adoptive parent of any parent to a minor child;”

SECTION 2. This act takes effect upon approval by the Governor. /

Renumber sections to conform.

Amend title to conform.

PAUL G. CAMPBELL, JR. for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

ESTIMATED FISCAL IMPACT ON GENERAL FUND EXPENDITURES:

$0 (No additional expenditures or savings are expected)

ESTIMATED FISCAL IMPACT ON FEDERAL & OTHER FUND EXPENDITURES:

$0 (No additional expenditures or savings are expected)

**EXPLANATION OF IMPACT:**

The Judicial Department indicates that enactment of this bill will have no impact on the General Fund of the State or on federal and/or other funds.

*Approved By:*

Harry Bell

Office of State Budget

**A** **BILL**

TO AMEND SECTION 63‑3‑530, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE JURISDICTION OF THE FAMILY COURT, INCLUDING JURISDICTION TO ORDER VISITATION FOR GRANDPARENTS, SO AS TO PROVIDE THAT THE COURT MAY ORDER GRANDPARENT VISITATION IF THE COURT FINDS THAT THE CHILD’S PARENTS ARE DEPRIVING THE GRANDPARENT VISITATION WITH THE CHILD AND THAT THE PARENTS ARE UNFIT OR THAT THERE ARE COMPELLING CIRCUMSTANCES TO OVERCOME THE PRESUMPTION THAT THE PARENTAL DECISION IS IN THE CHILD’S BEST INTEREST.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 63‑3‑530(A)(33) of the 1976 Code, as added by Act 361 of 2008, is amended to read:

“(33) ~~to order periods of visitation for the grandparents of a minor child where either or both parents of the minor child is or are deceased, or are divorced, or are living separate and apart in different habitats regardless of the existence of a court order or agreement, and upon a written finding that the visitation rights would be in the best interests of the child and would not interfere with the parent/child relationship. In determining whether to order visitation for the grandparents, the court shall consider the nature of the relationship between the child and his grandparents prior to the filing of the petition or complaint~~ to order visitation for the grandparent of a minor child if the court finds that the child’s parents or guardians are depriving the grandparent of the opportunity to visit with the child and:

(a) the court finds by clear and convincing evidence that the child’s parents or guardians are unfit; or

(b) the court finds by clear and convincing evidence that there are compelling circumstances to overcome the presumption that the parental decision is in the child’s best interest.

However, this item does not apply to a family in which the parents and child or children reside in the same household.

The judge presiding over this matter shall award attorney’s fees and costs to the prevailing party.

For purposes of this item, ‘grandparent’ means the natural or adoptive parent of any parent to a minor child;”

SECTION 2. This act takes effect upon approval by the Governor.

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