

2012 -- S 2153

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2012

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A N A C T

RELATING TO DOMESTIC RELATIONS - DIVORCE AND SEPARATION

Introduced By: Senators Gallo, and Goodwin

Date Introduced: January 18, 2012

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 15-5-24.3 and 15-5-24.4 of the General Laws in Chapter 15-5  
2 entitled "Divorce and Separation" are hereby amended to read as follows:

3 **15-5-24.3. Visitation rights -- Grandparents and siblings.** -- (a) (1) The family court,  
4 upon miscellaneous petition of a grandparent for visitation rights with the petitioner's grandchild,  
5 and upon notice to both parents of the child and notice to the child, and after a hearing on the  
6 petition, may grant reasonable rights of visitation of the grandchild to the petitioner.

7 (2) The court, in order to grant the petitioner reasonable rights of visitation, must find  
8 and set forth in writing the following findings of fact:

9 (i) That it is in the best interest of the grandchild that the petitioner is granted visitation  
10 rights with the grandchild;

11 (ii) That the petitioner is a fit and proper person to have visitation rights with the  
12 grandchild;

13 ~~(iii) That the petitioner has repeatedly attempted to visit his or her grandchild during the~~  
14 ~~ninety (90) days immediately preceding the date the petition was filed and was not allowed to~~  
15 ~~visit the grandchild during the ninety (90) day period as a direct result of the actions of either, or~~  
16 ~~both, parents of the grandchild;~~

17 ~~(iv)~~(iii) That there is no other way the petitioner is able to visit his or her grandchild  
18 without court intervention; and

19 ~~(v)~~(iv) That the petitioner, by clear and convincing evidence, has successfully rebutted

1 the presumption that the parent's decision to refuse the grandparent visitation with the grandchild  
2 was reasonable.

3 (b) (1) The family court, upon miscellaneous petition of, or on behalf of, a sibling(s) for  
4 visitation rights with a minor brother(s), and/or step-brother(s), and/or sister(s), and/or step-  
5 sister(s) of the sibling(s) and upon notice to both parents of the minor and notice to the minor, and  
6 after a hearing on the petition, may grant reasonable rights of visitation of the minor to a  
7 sibling(s).

8 (2) The court, in order to grant a sibling reasonable rights of visitation, must find and set  
9 forth in writing the following findings of fact:

10 (i) That it is in the best interest of the minor that a sibling(s) be granted visitation rights  
11 with the minor;

12 (ii) That the sibling(s) is a fit and proper person to have visitation rights with the minor;

13 ~~(iii) That the sibling(s) was not allowed to visit the minor during the ninety (90) day~~  
14 ~~period immediately preceding the date the petition was filed as a direct result of the actions of~~  
15 ~~either, or both, parents or guardians of the minor;~~

16 ~~(iv)~~(iii) That there is no other way the sibling(s) is able to visit the minor without court  
17 intervention; and

18 ~~(v)~~(iv) That the sibling(s), by clear and convincing evidence, has successfully rebutted  
19 the presumption that the parental decision to refuse the visitation with the minor was reasonable.

20 (c) The court may issue all necessary orders relative to the visitation rights it has granted.  
21 Once a petition has been granted, notice of any petition seeking a change in custody or visitation  
22 shall be served on the petitioner.

23 **15-5-24.4. Sibling visitation rights.** -- The family court, upon miscellaneous petition of a  
24 brother, sister, half-brother or half-sister, stepbrother, stepsister, or on behalf of any of those  
25 persons by his or her legal guardian, for visitation rights for the petitioner's sibling, half-sibling or  
26 stepsibling and upon notice to both parents of the child and notice to the child, and after a hearing  
27 on the petition, may grant reasonable rights of visitation of the sibling to the petitioner. The court,  
28 in order to grant reasonable rights of visitation, must find and set forth in writing the following  
29 findings of fact:

30 (1) That it is in the best interests of the child that the petitioner is granted visitation rights  
31 with the child;

32 (2) That the petitioner is a fit and proper person to have visitation rights with the child;

33 ~~(3) That the petitioner has repeatedly attempted to visit his or her sibling, half sibling or~~  
34 ~~stepsibling during the six (6) months immediately preceding the date the petition was filed and~~

1 ~~was not allowed to visit the child during the six (6) month period as a direct result of the actions~~  
2 ~~of either, or both, parents of the child;~~

3 ~~(4)~~(3) There is no other way that the petitioner is able to visit his or her sibling, half-  
4 sibling or stepsibling without court intervention; and

5 ~~(5)~~(4) That the petitioner, by clear and convincing evidence, has successfully rebutted  
6 the presumption that the parent's decision to refuse the petitioner's visitation with the child was  
7 reasonable.

8 (b) The court may issue all necessary orders relative to the visitation rights granted to the  
9 petitioner. Once the petitioner has been granted reasonable visitation rights, notice of any petition  
10 seeking a change in custody or visitation shall be served on the petitioner.

11 SECTION 2. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

A N A C T

RELATING TO DOMESTIC RELATIONS - DIVORCE AND SEPARATION

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- 1           This act would eliminate the waiting requirement for a grandparent to file a
- 2   miscellaneous petition for visitation.
- 3           This act would take effect upon passage.

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