

# Legislative Analysis

---



## REVISE GRANDPARENT RIGHTS IN STEPPARENT ADOPTIONS

Mitchell Bean, Director  
Phone: (517) 373-8080  
<http://www.house.mi.gov/hfa>

**Senate Bill 420 as passed by the Senate**  
**Sponsor: Sen. Irma Clark-Coleman**  
**House Committee: Judiciary**  
**Senate Committee: Judiciary**

### **First Analysis (7-11-06)**

**BRIEF SUMMARY:** Under the bill, the right to commence an action for grandparenting time with a child who had been adopted by a stepparent would be limited to the parents of a deceased parent of the child.

**FISCAL IMPACT:** The bill would have no fiscal implications for the state or local units of government.

### **THE APPARENT PROBLEM:**

In 2003, the Michigan Supreme Court declared the state's grandparenting statute (within the Child Custody Act) unconstitutional. New statutory language that could withstand constitutional challenges was enacted the following year (Public Act 542 of 2004.) Public Act 542 made numerous revisions. One key change that occurred was to allow all grandparents to petition for grandparenting time in cases where a grandchild had been adopted by a stepparent (and where the grandparents' own child had seen parental rights terminated as a result). The old law applied only to cases in which one parent was deceased; meaning, that if a child was adopted by a stepparent after the death of one of his or her parents, the parents of the deceased parent could petition for grandparenting time. Some feel that the new language affords protection to children whose stepparent may be abusive to the birth parent or to them and who insists that the children not be allowed to continued visits with the grandparents. Others, however, believe that this change was a drafting error and that the language should be returned to its previous version.

### **THE CONTENT OF THE BILL:**

Under provisions of the Child Custody Act (MCL 722.27b), adoption of a child by a stepparent under the Michigan Adoption Code does not terminate the right of a grandparent to commence an action for grandparenting time with that child.

Senate Bill 420 would amend the Child Custody Act so that the right to commence an action for grandparenting time with a child adopted by a stepparent would apply only to a grandparent who was the parent of a deceased parent of the child.

The bill is tie-barred to House Bill 5602 which would amend the Michigan Adoption Code to make an exception to a provision under which an adoptee is no longer the heir of a parent whose parental rights have been terminated. That bill also would revise language concerning grandparenting time proceedings.

#### ***HOUSE COMMITTEE ACTION:***

The committee made no changes to the Senate-passed version of the bill.

#### ***ARGUMENTS:***

##### ***For:***

The bill would restore a section of law pertaining to the rights of grandparents to bring an action for grandparenting time in cases involving stepparent adoptions to what it had been for decades. In general, the adoption of a child or the placement of a child for adoption terminates the ability of a grandparent to bring an action for grandparenting time. (This was because, generally, a grandparent's rights flow from the rights of a parent, and if a parent's rights are terminated, then so are the corresponding grandparents.) In stepparent adoptions, however, a grandparent whose own child was deceased could petition for visits with their deceased child's children. When new legislation was enacted in 2004 to restore grandparents' rights to bring actions for grandparenting time with their grandchildren, the section of the law pertaining to actions in cases where the grandchild had been adopted by a stepparent was changed to allow all grandparents to petition for grandparenting time. It is widely believed this was a drafting error. The bill would reverse this and restore the law on stepparent adoptions to its previous condition.

##### ***Against:***

When testimony was being taken on legislation to re-enact a grandparenting rights statute in 2004, several grandparents testified on the need for grandparents to have standing to petition for grandparenting time, even with grandchildren who had been adopted by stepparents. In particular, some parents whose daughters had remarried reported that their daughters ended their visits with the grandchildren under duress and intimidation brought by their new husbands. Some of these grandparents later found out that the grandchildren were being physically and sexually abused by the stepparent, and ending the grandparents' contact with the children was part of the abuser's attempt to isolate the grandchildren and hide the abuse. Had they been able to maintain contact with the grandchildren, evidence of the abuse could have surfaced earlier. However, under the old law, which the bill seeks to restore, the grandparents had no recourse even to ask a court to consider restoring visits with the grandchildren.

The current language (which the bill would revise) does not provide a guarantee that grandparents will be awarded grandparenting time after a stepparent adoption. It simply allows grandparents the right to petition the court; the court maintains discretion to allow or disallow such visitation on a case by case basis.

***POSITIONS:***

The Department of Human Services indicated support for the bill. (6-14-06)

The Family Law Section of the State Bar of Michigan supports the bill. (6-14-06)

Legislative Analyst: Susan Stutzky  
Fiscal Analyst: Marilyn Peterson

---

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.