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## GRANDPARENTING TIME

House Bills 4275 and 4276  
Sponsor: Rep. David Gubow  
Committee: Judiciary

Complete to 2-28-97

### A SUMMARY OF HOUSE BILLS 4275 and 4276 AS INTRODUCED 2-11-97

House Bill 4276 would amend the Child Custody Act (MCL 722.27b) to allow a grandparent, whether natural or adoptive, to seek a grandparenting time order under any of the following circumstances:

- \*an action for divorce, separate maintenance, or annulment involving the parent was pending;

- \*the parents were divorced or legally separated, or their marriage had been annulled;

- \*the grandparent's child who was the parent of the grandchild had died;

- \*legal custody had been given to a person other than the grandchild's parent or the grandchild had been placed outside the parent's home;

- \*the grandparent had provided an established custodial environment for the grandchild at any time during the grandchild's life;

- \*a parent had denied grandparenting time as retaliation for the grandparent reporting child abuse or neglect, when the grandparent had reasonable cause to suspect abuse or neglect;

- \*a parent was living separate and away from the other parent and grandchild for more than one year;

- \*the parents had never been married and were not residing in the same household (however, as with current statute, a parent of a putative father could not seek court-ordered grandparenting time unless the father had acknowledged paternity in writing, had been determined to be the father in court, or had contributed regularly to the support of the child).

If a circuit court had continuing jurisdiction over the child in question, the grandparent would have to file a motion in that court. Where the grandparent sought an order for grandparenting time by filing a motion in a pending divorce, separate maintenance, or annulment action, the conclusion of that action would not dismiss the grandparent's motion. If a circuit court did not have continuing jurisdiction over the grandchild in question, a grandparent seeking an order granting grandparenting time would be required to commence his or her action by filing a complaint in the circuit court for the county where the grandchild resides.

As with current law, the grandparent seeking the order would be required to provide an affidavit to support his or her position and the bill would require the grandparent to provide notice, not only to the person with legal custody of the child, but also to a person who had an order for parenting time with the child. Also as with current law, grandparenting time would be ordered if it was in the best interests of the grandchild; the bill would specify that it would be up to the grandparent to show that grandparenting time would be in the grandchild's best interests. The law at present requires the court to state the reasons for a denial on the record; the bill would also require the reasons for granting grandparenting time to be recorded. The court could refer a grandparenting time request to the friend of the court mediation service, but if no settlement was reached within a reasonable time, the request would be heard by the court. As with current law the person with legal custody of the child could not be prevented from changing moving the child solely to keep from interfering with the grandparenting time order.

Both present law and the bill would limit grandparent filings, absent a showing of good cause, to once every two years. In addition, the bill would allow a court to award costs and fees as provided in the Revised Judicature Act upon a motion of one of the parties.

Placement of a grandchild for adoption generally would terminate the right of a grandparent to commence an action for grandparenting time. However, adoption or placement for adoption by a stepparent or other relative would not terminate a grandparent's right to seek grandparenting time.

House Bill 4275 would amend the adoption code (MCL 710.60) to delete language stating that a parent of a natural parent may, during the pendency of a stepparent adoption proceeding, seek grandparenting time. Language acknowledging grandparenting time under the Child Custody Act would be retained.

Neither bill could take effect unless both were enacted.

Analyst: W. Flory

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#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.