

CHAPTER NO. 17

HOUSE BILL NO. 88
INTRODUCED BY WALDRON

IN THE HOUSE

January 9, 1979	Introduced and referred to Committee on Judiciary.
January 15, 1979	Committee recommend bill do pass as amended. Report adopted.
January 16, 1979	Printed and placed on members' desks.
January 17, 1979	Second Reading, do pass.
January 18, 1979	Considered correctly engrossed.
January 19, 1979	Third Reading, passed. Transmitted to Second House.

IN THE SENATE

January 20, 1979	Introduced and referred to Committee on Judiciary.
January 27, 1979	Committee recommend bill be concurred in. Report adopted.
January 30, 1979	Second Reading, concurred in.
February 1, 1979	Third Reading, concurred in.

IN THE HOUSE

February 2, 1979	Returned from second house. Concurred in. Sent to enrolling. Reported correctly enrolled.
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1 HOUSE BILL NO. 88
2 INTRODUCED BY Walton

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4 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR
5 GRANDPARENT VISITATION RIGHTS WITH MINOR GRANDCHILDREN UNDER
6 CERTAIN CIRCUMSTANCES WHEN THE VISITATION RIGHTS ARE IN THE
7 BEST INTEREST OF THE CHILD; AMENDING SECTION 40-4-217, MCA."

8
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10 NEW SECTION. Section 1. Application of Montana Rules
11 of Civil Procedure. (1) Except as otherwise provided, the
12 Montana Rules of Civil Procedure apply to all proceedings
13 under [sections 1 and 2].

14 (2) A proceeding for grandparent visitation under
15 [sections 1 and 2] shall be entitled, "In re the visitation
16 of".

17 (3) The initial pleading in all proceedings under
18 [sections 1 and 2] shall be denominated a petition. A
19 responsive pleading shall be denominated a response. Other
20 pleadings shall be denominated as provided in the Montana
21 Rules of Civil Procedure.

22 NEW SECTION. Section 2. Grandparent visitation
23 rights. (1) If the father or mother of an unmarried minor
24 child is deceased, the district court may grant to the
25 parents of the deceased person reasonable visitation rights

1 with the minor child.

2 (2) Visitation rights granted under this section may
3 be granted only upon a finding by the court, after a
4 hearing, that the visitation would be in the best interest
5 of the child.

6 (3) This section does not apply if the child has been
7 adopted by a person other than a stepparent or a
8 grandparent. Visitation rights granted under this section
9 terminate upon the adoption of the child by a person other
10 than a stepparent or a grandparent.

11 Section 3. Section 40-4-217, MCA, is amended to read:
12 "40-4-217. Visitation. (1) A parent not granted
13 custody of the child is entitled to reasonable visitation
14 rights unless the court finds, after a hearing, that
15 visitation would endanger seriously the child's physical,
16 mental, moral, or emotional health.

17 ~~(2) In a proceeding for dissolution of marriage or~~
18 ~~legal separation, the court may, upon the petition of a~~
19 ~~grandparent, grant reasonable visitation rights to the~~
20 ~~grandparent of the child if the court finds, after a~~
21 ~~hearing, that the visitation would be in the best interest~~
22 ~~of the child.~~

23 (2)(3) The court may modify an order granting or
24 denying visitation rights whenever modification would serve
25 the best interest of the child; but the court shall not

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1 restrict a parent's visitation rights unless it finds that
2 the visitation would endanger seriously the child's
3 physical, mental, moral, or emotional health."

-End-

Approved by Committee
on Judiciary

HOUSE BILL NO. 88

INTRODUCED BY WALDRON

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR GRANDPARENT VISITATION RIGHTS WITH MINOR GRANDCHILDREN UNDER CERTAIN CIRCUMSTANCES WHEN THE VISITATION RIGHTS ARE IN THE BEST INTEREST OF THE CHILD; AMENDING SECTION 40-4-217, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Application of Montana Rules of Civil Procedure. (1) Except as otherwise provided, the Montana Rules of Civil Procedure apply to all proceedings under [sections 1 and 2].

(2) A proceeding for grandparent visitation under [sections 1 and 2] shall be entitled, "In re the visitation of".

(3) The initial pleading in all proceedings under [sections 1 and 2] shall be denominated a petition. A responsive pleading shall be denominated a response. Other pleadings shall be denominated as provided in the Montana Rules of Civil Procedure.

NEW SECTION. Section 2. Grandparent visitation rights. (1) If the father or mother of an unmarried minor child is deceased, the district court may grant to the parents of the deceased person reasonable visitation rights

with the minor child.

(2) Visitation rights granted under this section may be granted only upon a finding by the court, after a hearing, that the visitation would be in the best interest of the child.

(3) This section does not apply if the child has been adopted by a person other than a stepparent or a grandparent. Visitation rights granted under this section terminate upon the adoption of the child by a person other than a stepparent or a grandparent.

Section 3. Section 40-4-217, MCA, is amended to read:

"40-4-217. Visitation. (1) A parent not granted custody of the child is entitled to reasonable visitation rights unless the court finds, after a hearing, that visitation would endanger seriously the child's physical, mental, moral, or emotional health.

~~(2) In a proceeding for dissolution of marriage or legal separation, the court may, upon the petition of a grandparent, grant reasonable visitation rights to the grandparent of the child if the court finds, after a hearing, that the visitation would be in the best interest of the child.~~

(2)(3) The court may modify an order granting or denying visitation rights whenever modification would serve the best interest of the child; but the court shall not

1 restrict a parent's visitation rights unless it finds that
2 the visitation would endanger seriously the child's
3 physical, mental, moral, or emotional health."

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