

MAINE STATE LEGISLATURE

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115th MAINE LEGISLATURE

FIRST REGULAR SESSION-1991

Legislative Document

No. 1307

H.P. 910

House of Representatives, March 27, 1991

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script that reads "Ed Pert".

EDWIN H. PERT, Clerk

Presented by Representative ANTHONY of South Portland.
Cosponsored by Senator GAUVREAU of Androscoggin and Senator HOLLOWAY of Lincoln.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND NINETY-ONE

**An Act Concerning Visitation Rights of Grandparents of Minor Children
in the Event of the Death of a Parent.**



2 Be it enacted by the People of the State of Maine as follows:

4 19 MRSA c. 20 is enacted to read:

6 CHAPTER 20

8 VISITATION RIGHTS OF GRANDPARENTS

10 §1001. Short title

12 This chapter is known and may be cited as the "The Grandparents Visitation Act."

14 §1002. Definitions

16 As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

18 1. Grandparent. "Grandparent" is the biological or
20 adoptive parent of the child's biological parent or the child's
22 adoptive parent.

24 §1003. Petition

26 1. Visitation rights. A grandparent of a minor child may
28 petition the court for reasonable rights of visitation or access
if at least one of the child's parents or legal guardians has
died.

30 2. Best interest of the child. The court may grant a
32 grandparent reasonable rights of visitation or access to a minor
34 child upon finding that rights of visitation or access would be
36 in the best interest of the child and would not significantly
interfere with any parent-child relationship or with the parent's
rightful authority over the child. In applying this standard the
court shall consider the following factors:

38 A. The age of the child;

40 B. The relationship of the child with the child's
42 grandparents, including the amount of previous contact;

44 C. The preference of the child, if old enough to express a
meaningful preference;

46 D. The duration and adequacy of the child's current living
48 arrangements and the desirability of maintaining continuity;

50 E. The stability of any proposed living arrangements for
the child;

2 F. The motivation of the parties involved and their
4 capacities to give the child love, affection and guidance;

6 G. The child's adjustment to the child's present home,
8 school and community;

10 H. The capacity of the parent and grandparent to cooperate
12 or to learn to cooperate in child care;

14 I. Methods of assisting cooperation and resolving disputes
16 and each person's willingness to use those methods; and

18 J. Any other factor having a reasonable bearing on the
20 physical and psychological well-being of the child.

22 3. Modification termination. The court may modify or
24 terminate any rights granted under this section as circumstances
26 require. Modification or termination of rights must be
28 consistent with this section.

30 4. Enforcement. The court may issue any orders necessary
32 to enforce orders issued under this section or to protect the
34 rights of parties.

36 5. Costs and fees. The court may award costs, including
38 reasonable attorney's fees for defending or prosecuting actions
40 under this chapter.

42 **§1004. Jurisdiction**

44 An action may be commenced in the Superior Court or the
46 District Court in which the minor child resides. An action must
48 be commenced in accordance with the Maine Rules of Civil
50 Procedure. Proceedings under this chapter are governed by the
Maine Rules of Civil Procedure.

STATEMENT OF FACT

All children are entitled to enjoy secure, stable and beneficial relationships with their grandparents and to maintain these relationships unless they endanger the welfare of the child as defined in the child abuse and neglect laws of this State. The Grandparents Visitation Act as established in this bill would apply only to circumstances where one of the parents of a minor child has died. The bill allows the court to maintain the relationship between a grandchild and that grandchild's grandparents when it is in the grandchild's best interest and does not interfere with a parent-child relationship.