

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL**No. 2196** Session of
1993

INTRODUCED BY BISHOP, TIGUE, HENNESSEY, ROONEY, GAMBLE, RAYMOND,
PESCI, STEIGHNER, COLAIZZO, BATTISTO, ROBERTS, PISTELLA,
VEON, LAUGHLIN, TULLI, LAUB, TRELLO, HERSHEY, MELIO,
WILLIAMS, THOMAS AND ARMSTRONG, NOVEMBER 22, 1993

AS REPORTED FROM COMMITTEE ON AGING AND YOUTH, HOUSE OF
REPRESENTATIVES, AS AMENDED, JUNE 8, 1994

AN ACT

1 Amending Title 23 (Domestic Relations) of the Pennsylvania
2 Consolidated Statutes, further providing for when a child has
3 resided with grandparents.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. Section 5313 of Title 23 of the Pennsylvania
7 Consolidated Statutes is amended to read:

8 § 5313. When child has resided with grandparents.

9 (a) Partial custody and visitation.--If an unmarried child
10 has resided with his grandparents or great-grandparents for a
11 period of 12 months or more and is subsequently removed from the
12 home by his parents, the grandparents or great-grandparents may
13 petition the court for an order granting them reasonable partial
14 custody or visitation rights, or both, to the child. The court
15 shall grant the petition if it finds that visitation rights
16 would be in the best interest of the child and would not
17 interfere with the parent-child relationship.

1 (b) Sole custody.--A grandparent has standing to bring a
2 petition for SOLE LEGAL AND PHYSICAL custody of a child. If it <—
3 is in the best interest of the child to not be in the custody of
4 either parent, the court may award sole legal custody and sole
5 physical custody to the grandparent. The court shall impose no <—
6 greater burden of proof upon a grandparent than that which is
7 imposed upon a parent in a custody proceeding. The following
8 must be established for an award under this subsection:

9 (1) The grandparent has genuine care and concern for the
10 child.

11 (2) The relationship between the child and the
12 grandparent began:

13 (i) with the consent of the parent; or

14 (ii) pursuant to a court order.

15 (3) The grandparent has assumed the role and
16 responsibilities of the child's parent, providing for the
17 physical, emotional and social needs of the child.

18 (4) It is necessary for the grandparent to assume the
19 role and responsibility of the child's parent because of the
20 parent's:

21 (i) physical or sexual abuse of the child;

22 (ii) dysfunction, such as drug or alcohol abuse; or

23 (iii) emotional or mental illness or instability.

24 THIS SUBSECTION APPLIES TO A GRANDPARENT: <—

25 (1) WHO HAS GENUINE CARE AND CONCERN FOR THE CHILD;

26 (2) WHOSE RELATIONSHIP WITH THE CHILD BEGAN WITH THE
27 CONSENT OF A PARENT OF THE CHILD OR PURSUANT TO AN ORDER OF
28 COURT;

29 (3) WHO, OVER AN EXTENDED PERIOD OF TIME, HAS ASSUMED
30 THE ROLE AND RESPONSIBILITIES OF THE CHILD'S PARENT,

1 PROVIDING FOR THE PHYSICAL, EMOTIONAL, FINANCIAL AND SOCIAL
2 NEEDS OF THE CHILD; AND

3 (4) WHO DEEMS IT IS NECESSARY TO ASSUME THE ROLE AND
4 RESPONSIBILITIES OF THE CHILD'S PARENT DUE TO PHYSICAL OR
5 SEXUAL ABUSE OR NEGLECT OR PARENTAL DYSFUNCTION, INCLUDING,
6 BUT NOT LIMITED TO, DRUG OR ALCOHOL ABUSE AND EMOTIONAL OR
7 MENTAL ILLNESS OR INSTABILITY.

8 Section 2. This act shall take effect in 60 days.