



# House of Representatives

General Assembly

**File No. 596**

February Session, 2016

House Bill No. 5608

*House of Representatives, April 13, 2016*

The Committee on Judiciary reported through REP. TONG of the 147th Dist., Chairperson of the Committee on the part of the House, that the bill ought to pass.

## ***AN ACT CONCERNING A GRANDPARENT'S RIGHT OF VISITATION WITH A GRANDCHILD.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (b) of section 46b-59 of the general statutes is  
2 repealed and the following is substituted in lieu thereof (*Effective*  
3 *October 1, 2016*):

4 (b) (1) A grandparent may submit a verified petition to the Superior  
5 Court for the right of visitation with any minor child. Such petition  
6 shall include specific and good-faith allegations that (A) a parent-like  
7 relationship exists between the grandparent and the minor child and  
8 denial of visitation would cause real and significant harm; or (B)  
9 compelling circumstances exist that overcome the presumption that  
10 the parental decision to deny such visitation is in the child's best  
11 interest. Subject to subsection (e) of this section, the court shall grant  
12 the right of visitation with any minor child to a grandparent if the  
13 court finds after hearing and by clear and convincing evidence that (i)  
14 a parent-like relationship exists between the grandparent and the

15 minor child and denial of visitation would cause real and significant  
 16 harm; or (ii) compelling circumstances exist that overcome the  
 17 presumption that the parental decision to deny such visitation is in the  
 18 child's best interest.

19 [(b)] (2) Any person, other than a grandparent, may submit a  
 20 verified petition to the Superior Court for the right of visitation with  
 21 any minor child. Such petition shall include specific and good-faith  
 22 allegations that [(1)] a parent-like relationship exists between the  
 23 person and the minor child [,] and [(2)] denial of visitation would  
 24 cause real and significant harm. Subject to subsection (e) of this section,  
 25 the court shall grant the right of visitation with any minor child to any  
 26 person if the court finds after hearing and by clear and convincing  
 27 evidence that a parent-like relationship exists between the person and  
 28 the minor child and denial of visitation would cause real and  
 29 significant harm.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2016	46b-59(b)

**JUD**      *Joint Favorable*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

***OFA Fiscal Note******State Impact:*** None***Municipal Impact:*** None***Explanation***

The bill makes changes regarding petitions for third party visitation rights and does not result in a fiscal impact.

***The Out Years******State Impact:*** None***Municipal Impact:*** None

**OLR Bill Analysis****HB 5608*****AN ACT CONCERNING A GRANDPARENT'S RIGHT OF VISITATION WITH A GRANDCHILD.*****SUMMARY:**

This bill expands the circumstances under which a court must grant a grandparent the right to visit a minor grandchild.

Under the bill, the court must grant such a visitation right if at a hearing the grandparent can prove by clear and convincing evidence that compelling circumstances exist that overcome the presumption that the parental decision to deny such visitation is in the child's best interest (see related case in BACKGROUND). The bill requires the grandparent to include in his or her petition a specific and good-faith allegation of such compelling circumstances.

The law, unchanged by the bill, requires the court to grant a third-party, including a grandparent, the right to visit a child if it finds by clear and convincing evidence that (1) a parent-like relationship exists between the person and the child and (2) denial of visitation would cause real and significant harm. The law establishes specific factors the court may consider in determining if a parent-like relationship exists.

By law, a "grandparent" is a grandparent or great-grandparent related to a minor child by blood, marriage, or adoption.

EFFECTIVE DATE: October 1, 2016

**PARENT-LIKE RELATIONSHIP**

In determining whether a parent-like relationship exists between the person seeking visitation and the child, the court may consider the following:

1. existence and length of a relationship between the person and the child prior to the submission of a petition,
2. length of time that the relationship between the person and the child has been disrupted,
3. specific parent-like activities of the person seeking visitation toward the child,
4. any evidence that the person seeking visitation has unreasonably undermined the authority and discretion of the custodial parent,
5. significant absence of a parent from the child's life,
6. death of one of the child's parents,
7. physical separation of the child's parents,
8. fitness of the person seeking visitation, and
9. fitness of the custodial parent.

In determining whether a parent-like relationship exists between a grandparent and a grandchild, the judge may also consider the history of regular contact and proof of a close and substantial relationship between the grandparent and the child (CGS § 46b-59).

## **BACKGROUND**

### ***Related Case***

In *Troxel v. Granville*, the U.S. Supreme Court held that the State of Washington's grandparent visitation statute violated the U.S. Constitution's Due Process Clause because it interfered with a parent's right to make decisions about the care, custody, and control of his or her children (120 S.Ct. 2054 (2000)).

Under *Troxel*, state laws must (1) give deference to a fit parent's decision to deny visitation, (2) put the burden of proof on the grandparent, and (3) afford due process to a fit parent's decision.

**COMMITTEE ACTION**

Judiciary Committee

Joint Favorable

Yea 38    Nay 5    (03/28/2016)