



H.B. 236

123rd General Assembly
(As Introduced)

Reps. Pringle, Opfer, Britton, Barrett, Boyd, Hartnett, Jones, Allen, Verich, DePiero, Sullivan, Terwilleger, Willamowski, Vesper

BILL SUMMARY

- Maintains companionship or visitation rights granted to a grandparent, relative, or other person prior to adoption of a child if the child is adopted by a step-parent.
- Gives a court authority to grant companionship or visitation rights to a grandparent, relative, or other person after adoption of the child by a step-parent.

CONTENT AND OPERATION

Background

Ohio law permits a court to grant rights of visitation or companionship with a child to a grandparent or other relative if the child's parents terminate their marriage or separate, are not married, or a parent dies. The marriage or remarriage of a parent does not affect the court's authority to grant or modify visitation rights. However, under Ohio law adoption generally terminates all legal relationships between an adopted person and the person's relatives "so that the adopted person thereafter is a stranger to the adopted person's former relatives for all purposes" ¹ The Ohio Supreme Court has held that the result of the adoption statute is that post-adoption companionship or visitation rights may not be granted to grandparents. (See **COMMENT.**)

¹ *There are two exceptions to this general rule: (1) if the child is adopted by a step-parent, the rights of the parent married to the step-parent and that parent's relatives are not affected by the adoption and (2) if a parent dies and the child is adopted by a step-parent, the child's rights from or through the deceased parent (such as rights of inheritance) are not restricted or curtailed by the adoption.*

The bill

(sec. 3107.15)

The bill provides that if a step-parent adopts a child, a grandparent's, relative's, or other person's right to companionship or visitation is not restricted or terminated by the adoption. The only exception is that the right is eliminated if, prior to the adoption, the parent and child relationship was terminated.

Visitation rights granted prior to adoption

Under the bill, companionship or visitation rights with a child granted prior to the child's adoption, may not be restricted or terminated. Thus, for example, if a child's parents are unmarried, companionship or visitation rights granted by a court to the father's parents would be preserved if the child is adopted by a stepfather, unless the relationship of parent and child between the father and the child is terminated before the adoption.

Court's authority after an adoption

(secs. 3109.051, 3109.11, and 3109.12)

The bill provides that the adoption of a child by a step-parent does not affect the authority of a court to grant reasonable companionship or visitation rights with respect to the child to any of the following:

- (1) If the parents have divorced, legally separated, or had their marriage dissolved or annulled--to a grandparent, relative, or any other person;
- (2) If a parent dies--to a grandparent or another relative of the deceased parent;
- (3) If the parents are not married to one another--to the parents or relatives of the natural father or the parents or relatives of the mother.

COMMENT

In *Sweeney v. Sweeney* (1994), 71 Ohio St.3d 169, the Supreme Court reversed the decision of a lower court that granted visitation rights to the paternal grandparents of a child after the child was adopted by a step-parent. The Court, in making its decision, relied on the authority of its decisions in *In re Adoption of Ridenour* (1991), 61 Ohio St.3d 319 and *In re Martin* (1994), 68 Ohio St.3d 250. *Ridenour* determined that post-adoption visitation by biological grandparents is not permitted after the grandchild is adopted by strangers. *Martin* determined that

post-adoption visitation by grandparents is not permitted regardless of whether the adoption is by a stranger or a nonstranger. In both cases the Court found that Revised Code section 3107.15 clearly requires the termination of the legal relationships, thus visitation could not be granted.

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	03-09-99	p. 276

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