

R.S. 9:2-7.1

LEGISLATIVE HISTORY OF R.S.9:2-7.1
(1973 amendment-Grandparents' visitation rights when
parents are divorced or separated)

copy 1

*(for materials
see appendix)*

L.1973 - chapter 100 - S766

Mar.13, 1972 - Introduced by Rinaldo, Epstein and McDermott.

No statement on bill.

Senate Judiciary Committee Statement, dated Feb.5 1973
(copy enclosed)

Not amended during passage.

No Governor's statement upon signing.

We located no similar or previous bills.
There were no hearings or reports.

Clippings - we searched VF-NJ-Child Welfare, VF-NJ-Marriage and
Divorce:

"Grandma's Visiting Rights Urged", Trenton Evening
Times Dec.8, 1972 (copy enclosed).

MEG/EH
Encl.

CHAPTER 100 LAWS OF N. J. 19 73
APPROVED 5-2-73

SENATE, No. 766

STATE OF NEW JERSEY

INTRODUCED MARCH 13, 1972

By Senators RINALDO, EPSTEIN and McDERMOTT

Referred to Committee on Judiciary

AN ACT to amend "An act authorizing the maintenance of habeas corpus proceedings by grandparents to obtain visitation rights in respect to their infant grandchildren in certain cases, and supplementing chapter 2 of Title 9 of the Revised Statutes," approved February 1, 1972 (P. L. 1971, c. 420).

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. Section 1 of P. L. 1971, c. 420 (C. 9:2-7.1) is amended to read
2 as follows:

3 1. Where either or both of the parents of a minor child, residing
4 within this State, is or are deceased, *or divorced or living separate*
5 *and apart in different habitats, regardless of the existence of a*
6 *court order or agreement*, a grandparent or the grandparents of
7 such child, who is or are the parents of such deceased, *separated*
8 *or divorced* parent or parents, may apply to the Superior Court,
9 *in accordance with the Rules of Court*, **[for a writ of habeas corpus]**
10 to have such child brought before such court; and **[on the return**
11 **thereof,]** the court may make such order or judgment, as the best
12 interest of the child may require, for visitation rights for such
13 grandparent or grandparents in respect to such child.

1 2. This act shall take effect immediately.

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

GRANDPARENTS—MINOR GRANDCHILDREN—
VISITING RIGHTS

CHAPTER 100

SENATE NO. 766

An Act to amend "An act authorizing the maintenance of habeas corpus proceedings by grandparents to obtain visitation rights in respect to their infant grandchildren in certain cases, and supplementing chapter 2 of Title 9 of the Revised Statutes," approved February 1, 1972 (P.L.1971, c. 420).

Be it enacted by the Senate and General Assembly of the State of New Jersey:

1. Section 1 of P.L.1971, c. 420 (C. 9:2-7.1)²⁰ is amended to read as follows: Where either or both of the parents of a minor child, residing within this State, is or are deceased, or divorced or living separate and apart in different habitats, regardless of the existence of a court order or agreement, a grandparent or the grandparents of such child, who is or are the parents of such deceased, separated or divorced parent or parents, may apply to the Superior Court, in accordance with the Rules of Court, for a writ of habeas corpus to have such child brought before such court; and on the return thereof, the court may make such order or judgment, as the best interest of the child may require, for visitation rights for such grandparent or grandparents in respect to such child.

2.

This act shall take effect immediately.
Approved and effective May 2, 1973.

Committee Statement

Present law (P.L.1971, c. 420) provides that grandparents may have visitation rights in respect to their infant grandchildren if one or both of the child's parents are deceased.

This bill would allow, in addition, visitation rights for grandparents in cases where the parents were divorced or separated and living in different habitations.

The procedure required for a grandparent to obtain visitation rights would also be changed from a writ of habeas corpus to one to be determined by the Rules of Court.

20. N.J.S.A. 9:2-7.1.

*Chapter
P.L. 100 - 1973*

*Passed in Senate, Feb 8, 1973 (34-1)
Passed in Assembly, April 2, 1973 (52-0)
May 2, 1973 - signed into Law*

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SENATE JUDICIARY COMMITTEE

STATEMENT TO

SENATE, No. 766

STATE OF NEW JERSEY

DATED: FEBRUARY 5, 1973

Present law (P. L. 1971, c. 420) provides that grandparents may have visitation rights in respect to their infant grandchildren if one or both of the child's parents are deceased.

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EXECUTIVE OFFICE



INTER-COMMUNICATION

From: David F. Norcross
Assistant Counsel to the Governor

To: Honorable Pierre P. Garven
Counsel to the Governor
(Institution or Department)

Date: March 7, 1972

While discussing this matter with Tischler, and several matrimonial judges, all agreed that this law should not be limited to situations where parents are deceased but ought to include divorce or separation situation.

Have I your approval to go with this?

D. F. N.

- DRAFT -

an act to amend "an act authorizing the maintenance of habeas corpus proceedings by grand parents to obtain visitation rights in respect to their infant grand children in certain cases, and supplementing Chapter 2 of Title 9 of the Revised Statutes," approved _____, 1942 (P.L. 1941, c. _____)

1. Section 1 of P.L. 1941, Chapter _____, (c. 9:2-) is amended to read as follows:

1. After "deceased" insert
"or divorced or living ^{separate and} apart in different
habitats, ^{regardless of the existence of} ~~whether~~ ~~dictated~~ by order of a
court order or agreement,"

~~2. After "parents" delete ", " insert
"or separated"~~

2. After "deceased" insert
"; separated or divorced"

3. After "Court" insert
", according to the Rules of Court,"

into
and
not
Rules

law act to amend "An act authorizing the maintenance of habeas corpus proceedings by grand parents to obtain visitation rights in respect to their infant grand children in certain cases, and supplementing Chapter 2 of Title 9 of the Revised Statutes," approved 1942 (P.L. 1941, c.).

1. Section 1 of P.L. 1941, chapter —, (c. 9:2-) is amended to read as follows:

1. After "deceased" insert
"or divorced or living ^{separate and} apart in different
habitats, ^{regardless of the existence of} ~~whether by order of a~~
court order or agreement,"

2. ~~After "parents" delete ", " insert~~
~~"or separated"~~

2. After "deceased" insert
"; separated or divorced"

3. After "court" insert
", according to the Rules of Court,"

4. After "; and " on line five delete
"on the return thereof,"

Opp. Div.

Case given introduced

In re Goldfarb.

- Pl. 1.1.1 ~~eliminate~~ delete
- 1.1.2 ~~eliminate~~ delete "within this State, is or are deceased,"
~~insert~~ insert "A"
- 1.1.3 ~~eliminate~~ delete "of such child," and insert
 "a minor child, residing within this State";
~~then delete~~

↓

who is or are the parents
 of such deceased"
- 1.1.4 delete "Parent or Parents," and after "for a"
 delete "writ of" and insert "Order to Show
 Cause" all except "and"
- 1.1.5 delete "that has ^{rights} to have", insert "they
 visitation should not be awarded"

Judge Francis 348-1129
Judge Hartman
Essex County 201-961-7305

SENATE, No. 196

Judge Consodine 201-961-7185

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1970 SESSION

By Senators GUARINI, MUSTO and W. F. KELLY

AN ACT authorizing the maintenance of habeas corpus proceedings by grandparents to obtain visitation rights in respect to their infant grandchildren in certain cases, and supplementing chapter 2 of Title 9 of the Revised Statutes.

to
according to Rules
of Court,

1 BE IT ENACTED by the Senate and General Assembly of the State
2 of New Jersey:

1 1. Where either or both of the parents of a minor child, residing
2 within this State, is or are deceased, a grandparent or the grand-
3 parents of such child, who is or are the parents of such deceased
4 parent or parents, may apply to the Superior Court for a writ of
5 habeas corpus to have such child brought before such court; and
6 on the return thereof, the court may make such order or judgment,
7 as the best interest of the child may require, for visitation rights
8 for such grandparent or grandparents in respect to such child.

or separated or just any grandparent
of course the parents are separated, divorced or living
estranged
separate and
apart
whether under
agreement or not

1 2. This act shall take effect immediately.

Tischler thinks might be OK but was persuaded by the argument
about ^{imposing} another spending for children to go through.

Habeas Corpus is an extrajudicial procedure but
S. Tischler is troubled.

Hartman favors this bill. Uses of parents in connection of
husband visitation anyway. Has done this under
Grand Chancery Jones anyway. Judge Lohengrub is Condemn

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or separated - or just any grandparent
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whether under agreement or not

1 2. This act shall take effect immediately.

Tischler thinks might be OK but was persuaded by the argument about ^{imposing} another proceeding for children to go through.

Habeas Corpus is an outmoded procedure but S. Tischler untroubled.

Hartman favors this bill. Uses of parents in connection of husband visitation anyway. Has done this under Grand Chancery favor anyway. Judge Lohengrat in Camden vicinage says he doesn't think he has auth. to do so. Therefore there is a problem of ^{even} application. Hartman favors removing all modifications from parents.

Francis favors this bill would extend it to separated parents definitely - thinks extension to all grandparents is not much

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or where the parents are divorced or living separate and apart whether under agreement or court order or not according to the Rules of Court