

**First Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 23-0616.02 Alana Rosen x2606

HOUSE BILL 23-1026

HOUSE SPONSORSHIP

English, Joseph, deGruy Kennedy, Lieder, Lindsay, Michaelson Jenet, Ricks, Valdez

SENATE SPONSORSHIP

Fields,

House Committees
Judiciary

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Health & Human Services

A BILL FOR AN ACT

101 **CONCERNING FAMILY TIME FOR GRANDPARENTS.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

Current law allows a grandparent or great-grandparent to seek a court order granting the grandparent or great-grandparent the right to visit grandchildren or great-grandchildren when there is or has been a child custody case or a case concerning the allocation of parental responsibilities relating to that child. The bill allows a court to appoint a child's legal representative to represent the child's best interests in a matter seeking to grant grandparents or great-grandparents family time with grandchildren or great-grandchildren.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.*

HOUSE
3rd Reading Unamended
April 11, 2023

HOUSE
Amended 2nd Reading
April 10, 2023

The bill changes the term "visitation rights" to "family time".

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1. Short title.** The short title of this act is the
3 **"Grandparents' Rights for Aaliyah and Myah Act".**

4 **SECTION 2.** In Colorado Revised Statutes, **add with amended**
5 **and relocated provisions**, 14-10-124.4 and 14-10-124.5 as follows:

6 **14-10-124.4. Family time for grandparents or**
7 **great-grandparents - legislative declaration - definitions.**

8 **(1)** (a) THE GENERAL ASSEMBLY FINDS AND DECLARES THAT:

9 (I) A CLOSE RELATIONSHIP BETWEEN GRANDPARENTS OR
10 GREAT-GRANDPARENTS AND GRANDCHILDREN OR GREAT-GRANDCHILDREN
11 CAN BE BENEFICIAL FOR THE HEALTH AND WELL-BEING OF
12 GRANDCHILDREN OR GREAT-GRANDCHILDREN; AND

13 (II) GRANDPARENTS OR GREAT-GRANDPARENTS MAY PROVIDE
14 ACCEPTANCE, PATIENCE, LOVE, STABILITY, WISDOM, AND SUPPORT TO
15 GRANDCHILDREN OR GREAT-GRANDCHILDREN.

16 (b) THE GENERAL ASSEMBLY FURTHER FINDS THAT IT MAY BE IN
17 THE BEST INTERESTS OF GRANDCHILDREN OR GREAT-GRANDCHILDREN FOR
18 GRANDPARENTS OR GREAT-GRANDPARENTS TO BE GRANTED
19 GRANDPARENT OR GREAT-GRANDPARENT FAMILY TIME BECAUSE OF THE
20 POSITIVE EFFECTS THE RELATIONSHIP MAY HAVE ON A GRANDCHILD'S OR
21 GREAT-GRANDCHILD'S HEALTH AND WELL-BEING.

22 **(2)** AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
23 REQUIRES:

24 (a) "GRANDPARENT" MEANS A PERSON WHO IS THE PARENT OF A
25 CHILD'S FATHER OR MOTHER, WHO IS RELATED TO THE CHILD BY BLOOD, IN

1 WHOLE OR BY HALF, ADOPTION, OR MARRIAGE; EXCEPT THAT
2 "GRANDPARENT" DOES NOT INCLUDE THE PARENT OF A CHILD'S LEGAL
3 FATHER OR MOTHER WHOSE PARENTAL RIGHTS HAVE BEEN TERMINATED
4 IN ACCORDANCE WITH SECTIONS 19-5-101 AND 19-1-104 (1)(d).

5 (b) "GREAT-GRANDPARENT" MEANS A PERSON WHO IS THE
6 GRANDPARENT OF A CHILD'S FATHER OR MOTHER, WHO IS RELATED TO THE
7 CHILD BY BLOOD, IN WHOLE OR BY HALF, ADOPTION, OR MARRIAGE;
8 EXCEPT THAT "GREAT-GRANDPARENT" DOES NOT INCLUDE THE
9 GRANDPARENT OF A CHILD'S LEGAL FATHER OR MOTHER WHOSE PARENTAL
10 RIGHTS HAVE BEEN TERMINATED IN ACCORDANCE WITH SECTIONS
11 19-5-101 AND 19-1-104 (1)(d).

12 (c) "GRANDPARENT OR GREAT-GRANDPARENT FAMILY TIME" OR
13 "GRANDPARENT FAMILY TIME" MEANS ANY FORM OF CONTACT OR
14 ENGAGEMENT BETWEEN GRANDPARENTS OR GREAT-GRANDPARENTS AND
15 THEIR GRANDCHILDREN OR GREAT-GRANDCHILDREN FOR THE PURPOSES OF
16 PRESERVING AND STRENGTHENING FAMILY TIES.

17 (3) [Formerly 19-1-117 (1)] Any grandparent or
18 great-grandparent of a child may, in the manner set forth in this section,
19 seek a court order granting ~~the grandparent or great-grandparent~~
20 reasonable ~~visitation rights~~ GRANDPARENT FAMILY TIME WITH A
21 GRANDCHILD OR GREAT-GRANDCHILD when there is or has been a child
22 custody case or a case concerning the allocation of parental
23 responsibilities ~~relating to that child~~ WITH RESPECT TO THAT CHILD.
24 Because cases arise that do not directly deal with child custody or the
25 allocation of parental responsibilities but nonetheless have an impact on
26 the custody of, or parental responsibilities with respect to a child, for the
27 purposes of this section, a "case concerning the allocation of parental

1 responsibilities with respect to a child" includes any of the following,
2 whether or not child custody was or parental responsibilities were
3 specifically an issue:

4 (a) ~~That~~ The marriage of the child's parents has been declared
5 invalid or has been dissolved by a court or ~~that~~ a court has entered a
6 decree of legal separation with regard to such marriage;

7 (b) ~~That~~ Legal custody of or parental responsibilities with respect
8 to the child have been given or allocated to a party other than the child's
9 parent or ~~that~~ the child has been placed outside of and does not reside in
10 the home of the child's parent, excluding any child who has been placed
11 for adoption or whose adoption has been legally finalized; or

12 (c) ~~That~~ The child's parent, who is the child of the grandparent or
13 grandchild of the great-grandparent, has died.

14 (4) ~~[Formerly 19-1-117 (2)]~~ A party seeking a ~~grandchild or~~
15 ~~great-grandchild visitation~~ GRANDPARENT FAMILY TIME order shall
16 submit, together with ~~his or her motion for visitation~~ THE PARTY'S
17 PETITION FOR GRANDPARENT FAMILY TIME, to the district court for the
18 district in which the child resides, an affidavit setting forth facts
19 supporting the requested order and shall give notice, together with a copy
20 of ~~his or her~~ THE PARTY'S affidavit, to ~~the party who has legal custody of~~
21 ~~the child or to the party with parental responsibilities~~ EACH PARTY
22 INVOLVED IN THE ALLOCATION OF PARENTAL RESPONSIBILITIES
23 PROCEEDINGS as determined by a court pursuant to THIS article 10. ~~of title~~
24 ~~14, C.R.S.~~ The party with legal custody or parental responsibilities as
25 determined by a court pursuant to THIS article 10, ~~of title 14, C.R.S.~~ may
26 file opposing affidavits. If neither party requests a hearing, the court shall
27 enter an order granting ~~grandchild or great-grandchild visitation rights~~

1 GRANDPARENT FAMILY TIME to the petitioning grandparent or
2 great-grandparent only upon a finding that the GRANDPARENT FAMILY
3 TIME is in the best interests of the child. A hearing shall MUST be held if
4 either party so requests or if it appears to the court that it is in the best
5 interests of the child that a hearing be held. At the hearing, parties
6 submitting affidavits shall be ARE allowed an opportunity to be heard. If,
7 at the conclusion of the hearing, the court finds it is in the best interests
8 of the child to grant grandchild or great-grandchild visitation rights
9 GRANDPARENT FAMILY TIME to the petitioning grandparent or
10 great-grandparent, the court shall enter an order granting such rights
11 GRANDPARENT FAMILY TIME. IN DETERMINING THE BEST INTERESTS OF THE
12 CHILD FOR THE PURPOSE OF GRANDPARENT OR GREAT-GRANDPARENT
13 FAMILY TIME, THE COURT SHALL PRESUME THE PARENTAL DETERMINATION
14 REGARDING GRANDPARENT TIME IS IN THE BEST INTERESTS OF THE CHILD.
15 A GRANDPARENT OR GREAT-GRANDPARENT MAY OVERCOME THE
16 PRESUMPTION UPON A SHOWING BY CLEAR AND CONVINCING EVIDENCE
17 THAT THE GRANDPARENT FAMILY TIME IS IN THE CHILD'S BEST INTERESTS.
18 IN MAKING THIS DETERMINATION, THE COURT SHALL CONSIDER THE
19 FACTORS DESCRIBED IN SECTION 14-10-124 (1.5)(a).

20 (5) THE COURT MAY APPOINT A LEGAL REPRESENTATIVE OF A
21 CHILD PURSUANT TO SECTION 14-10-116 TO REPRESENT THE BEST
22 INTERESTS OF THE CHILD IN A PROCEEDING PURSUANT TO SUBSECTION (4)
23 OF THIS SECTION.

24 (6) [Formerly 19-1-117 (3)] A grandparent or great-grandparent
25 shall not file an affidavit A PETITION seeking an order granting grandchild
26 or great-grandchild visitation rights GRANDPARENT FAMILY TIME more
27 than once every two years absent a showing of good cause. If the court

1 finds there is good cause to file more than one such affidavit PETITION, it
2 shall allow such additional affidavit SUCH ADDITIONAL PETITION to be
3 filed and shall consider it. The court may order reasonable attorney fees
4 to the prevailing party. The court may not make any order restricting the
5 movement of the child if such restriction is solely for the purpose of
6 allowing the grandparent or great-grandparent the opportunity to exercise
7 his grandchild or great-grandchild visitation rights THE GRANDPARENT'S
8 OR GREAT-GRANDPARENT'S FAMILY TIME WITH THE GRANDCHILD OR
9 GREAT-GRANDCHILD.

10 (7) [Formerly 19-1-117 (4)] The court may make an order
11 modifying or terminating grandchild or great-grandchild visitation rights
12 whenever such order would serve the best interests of the child THE
13 COURT MAY ESTABLISH, MODIFY, OR TERMINATE GRANDPARENT FAMILY
14 TIME IF THE ORDER WOULD SERVE THE BEST INTERESTS OF THE CHILD.

15 (8) [Formerly 19-1-117 (5)] Any order granting or denying
16 parenting time rights to the parent of a child shall not affect visitation
17 rights granted to a grandparent or great-grandparent pursuant to this
18 section AN ORDER ESTABLISHING, GRANTING, OR DENYING PARENTING
19 TIME RIGHTS TO THE PARENT OF A CHILD DOES NOT AFFECT GRANDPARENT
20 FAMILY TIME GRANTED TO A GRANDPARENT OR GREAT-GRANDPARENT AS
21 LONG AS THE GRANDPARENT FAMILY TIME IS IN THE BEST INTERESTS OF
22 THE CHILD PURSUANT TO THIS SECTION.

23 14-10-124.5. [Formerly 19-1-117.5] Disputes concerning
24 grandparent or great-grandparent family time. (1) Upon a verified
25 motion by a grandparent or great-grandparent who has been granted
26 visitation GRANDPARENT OR GREAT-GRANDPARENT FAMILY TIME or upon
27 the court's own motion alleging that the person with legal custody or

1 parental responsibilities of the child as determined by a court pursuant to
2 ~~THIS article 10 of title 14, C.R.S. with whom visitation~~ GRANDPARENT
3 FAMILY TIME has been granted is not complying with a grandparent or
4 great-grandparent ~~visitation~~ FAMILY TIME order or schedule, the court
5 shall determine from the verified motion, and response to the motion, if
6 any, whether there has been or is likely to be a substantial and continuing
7 noncompliance with the grandparent or great-grandparent ~~visitation~~
8 FAMILY TIME order or schedule and either:

9 (a) Deny the motion, if there is an inadequate allegation; or

10 (b) Set the matter for hearing with notice to the grandparent or
11 great-grandparent and the person with legal custody or parental
12 responsibilities of the child as determined by the court of the time and
13 place of the hearing; or

14 (c) Require said parties to seek mediation and report back to the
15 court on the results of the mediation within sixty days. Mediation services
16 ~~shall~~ MUST be provided in accordance with section 13-22-305. C.R.S. At
17 the end of the mediation period, the court may approve an agreement
18 reached by the parties or shall set the matter for hearing.

19 (2) After the hearing, if a court finds that the person with legal
20 custody or parental responsibilities of the child as determined by the court
21 has not complied with the ~~visitation~~ GRANDPARENT OR
22 GREAT-GRANDPARENT FAMILY TIME order or schedule and has violated the
23 court order, the court, in the best interests of the child, may issue orders
24 which may include but need not be limited to:

25 (a) Imposing additional terms and conditions which are consistent
26 with the court's previous order;

27 (b) Modifying the previous order to meet the best interests of the

1 child;

2 (c) Requiring the violator to post bond or security to insure future
3 compliance;

4 (d) Requiring that makeup ~~visitation~~ GRANDPARENT OR
5 GREAT-GRANDPARENT FAMILY TIME be provided for the aggrieved
6 grandparent or great-grandparent and child under the following
7 conditions:

8 (I) That such ~~visitation~~ GRANDPARENT OR GREAT-GRANDPARENT
9 FAMILY TIME is of the same type and duration of ~~visitation~~ GRANDPARENT
10 OR GREAT-GRANDPARENT FAMILY TIME as that which was denied,
11 including but not limited to ~~visitation~~ GRANDPARENT OR
12 GREAT-GRANDPARENT FAMILY TIME during weekends, on holidays, and
13 on weekdays and during the summer;

14 (II) That such ~~visitation~~ GRANDPARENT OR GREAT-GRANDPARENT
15 FAMILY TIME is made up within one year after the noncompliance occurs;
16 OR

17 (III) That such ~~visitation~~ GRANDPARENT OR GREAT-GRANDPARENT
18 FAMILY TIME is in the manner chosen by the aggrieved grandparent or
19 great-grandparent if it is in the best interests of the child;

20 (e) Finding the person who did not comply with the ~~visitation~~
21 GRANDPARENT OR GREAT-GRANDPARENT FAMILY TIME schedule in
22 contempt of court and imposing a fine or jail sentence; AND

23 (f) Awarding to the aggrieved party, ~~where~~ WHEN appropriate,
24 actual expenses, including attorney fees, court costs, and expenses
25 incurred by a grandparent or great-grandparent because of the other
26 person's failure to provide or exercise court-ordered ~~visitation~~
27 GRANDPARENT OR GREAT-GRANDPARENT FAMILY TIME. Nothing in this

1 section shall preclude PRECLUDES a party's right to a separate and
2 independent legal action in tort.

3 (3) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
4 REQUIRES:

5 (a) "GRANDPARENT" HAS THE SAME MEANING AS SET FORTH IN
6 SECTION 14-10-124.4.

7 (b) "GREAT-GRANDPARENT" HAS THE SAME MEANING AS SET
8 FORTH IN SECTION 14-10-124.4.

9 (c) "GRANDPARENT OR GREAT-GRANDPARENT FAMILY TIME" OR
10 "GRANDPARENT FAMILY TIME" HAS THE SAME MEANING AS SET FORTH IN
11 SECTION 14-10-124.4.

12 **SECTION 3.** In Colorado Revised Statutes, 14-10-129, amend
13 (1)(b)(I) as follows:

14 **14-10-129. Modification of parenting time.** (1) (b) (I) The court
15 shall not restrict a parent's parenting time rights unless it finds that the
16 parenting time would endanger the child's physical health or significantly
17 impair the child's emotional development. In addition to a finding that
18 parenting time would endanger the child's physical health or significantly
19 impair the child's emotional development, in any order imposing or
20 continuing a parenting time restriction, the court shall enumerate the
21 specific factual findings supporting the restriction. Nothing in this section
22 shall be construed to affect grandparent or great-grandparent visitation
23 FAMILY TIME granted pursuant to ~~section 19-1-117. C.R.S.~~ SECTION
24 14-10-124.4.

25 **SECTION 4.** In Colorado Revised Statutes, amend 14-10-131.8
26 as follows:

27 **14-10-131.8. Construction of 1999 revisions.** The enactment of

1 the 1999 revisions to this ~~article~~ ARTICLE 10 does not constitute
2 substantially changed circumstances for the purposes of modifying
3 decrees involving child custody, parenting time, or grandparent ~~visitation~~
4 OR GREAT-GRANDPARENT FAMILY TIME. Any action to modify any decree
5 involving child custody, parenting time, grandparent or great-grandparent
6 ~~visitation~~ FAMILY TIME, or a parenting plan ~~shall be~~ IS governed by the
7 provisions of this ~~article~~ ARTICLE 10.

8 **SECTION 5.** In Colorado Revised Statutes, 14-13-102, **amend**
9 (3) and (4) as follows:

10 **14-13-102. Definitions.** As used in this article 13, unless the
11 context otherwise requires:

12 (3) "Child-custody determination" means a judgment, decree, or
13 other order of a court providing for the legal custody or physical custody
14 of a child or allocating parental responsibilities with respect to a child or
15 providing for visitation, parenting time, or grandparent or
16 great-grandparent ~~visitation~~ FAMILY TIME with respect to a child. The term
17 includes a permanent, temporary, initial, and modification order. The term
18 does not include an order relating to child support or other monetary
19 obligation of an individual.

20 (4) "Child-custody proceeding" means a proceeding in which legal
21 custody or physical custody with respect to a child or the allocation of
22 parental responsibilities with respect to a child or visitation, parenting
23 time, or grandparent or great-grandparent ~~visitation~~ FAMILY TIME with
24 respect to a child is an issue. The term includes a proceeding for divorce,
25 dissolution of marriage, legal separation, neglect, abuse, dependency,
26 guardianship, paternity, termination of parental rights, and protection
27 from domestic violence and domestic abuse, in which the issue may

1 appear. The term does not include a proceeding involving juvenile
2 delinquency, except when such court is entering an order to allocate
3 parental responsibilities; contractual emancipation; or enforcement under
4 part 3 of this article 13.

5 **SECTION 6.** In Colorado Revised Statutes, 19-1-103, **repeal**
6 (70)(b) and (71) as follows:

7 **19-1-103. Definitions.** As used in this title 19 or in the specified
8 portion of this title 19, unless the context otherwise requires:

9 (70) (b) ~~"Grandparent", as used in sections 19-1-117 and~~
10 ~~19-1-117.5, has the same meaning as set forth in subsection (70)(a) of this~~
11 ~~section; except that "grandparent" does not include the parent of a child's~~
12 ~~legal father or mother whose parental rights have been terminated in~~
13 ~~accordance with sections 19-5-101 and 19-1-104 (1)(d).~~

14 (71) ~~"Great-grandparent", as used in sections 19-1-117 and~~
15 ~~19-1-117.5, means a person who is the grandparent of a child's father or~~
16 ~~mother, who is related to the child by blood, in whole or by half,~~
17 ~~adoption, or marriage. "Great-grandparent" does not include the~~
18 ~~grandparent of a child's legal father or mother whose parental rights have~~
19 ~~been terminated in accordance with sections 19-5-101 and 19-1-104~~
20 ~~(1)(d).~~

21 **SECTION 7.** In Colorado Revised Statutes, 19-4-105.5, **amend**
22 (5)(c)(I) introductory portion as follows:

23 **19-4-105.5. Commencement of proceedings - summons -**
24 **automatic temporary injunction - enforcement.** (5) A summons issued
25 upon commencement of a proceeding under this article shall contain the
26 following advisements and notice:

27 (c) (I) That, except in proceedings initiated pursuant to section

1 ~~19-1-117~~ SECTION 14-10-124.4 or in proceedings initiated by a delegate
2 child support enforcement unit, as defined in section 26-13-102.5 (1),
3 ~~C.R.S.~~ pursuant to article 13 or 13.5 of title 26, ~~C.R.S.~~, or article 5 of title
4 14, ~~C.R.S.~~ upon personal service of the petition and summons on a
5 respondent or upon waiver and acceptance of service by a respondent, a
6 temporary injunction shall be in effect against both parties:

7 **SECTION 8. Repeal of relocated provisions in this act.** In
8 Colorado Revised Statutes, **repeal** 19-1-117 and 19-1-117.5.

9 **SECTION 9. Act subject to petition - effective date.** This act
10 takes effect at 12:01 a.m. on the day following the expiration of the
11 ninety-day period after final adjournment of the general assembly; except
12 that, if a referendum petition is filed pursuant to section 1 (3) of article V
13 of the state constitution against this act or an item, section, or part of this
14 act within such period, then the act, item, section, or part will not take
15 effect unless approved by the people at the general election to be held in
16 November 2024 and, in such case, will take effect on the date of the
17 official declaration of the vote thereon by the governor.