

(H.B. 608)

**(No. 182)**

(Approved December 22, 1997)

**AN ACT**

To add Section 152A to the Puerto Rico Civil Code, as amended, in order to grant grandparents juridical legitimacy to appear in court to be heard on their visitation rights with regard to their minor non-emancipated grandchildren after the dissolution of the family unit due to the death of one of the parents, or a tutor, or as a result of a divorce, marriage annulment or separation; and to empower the court to issue the orders needed to validate said right, provided it is in the best interests of the minor.

**STATEMENT OF MOTIVES**

The purpose of this measure is to add Section 152A to the Puerto Rico Civil Code of 1930, in order to expressly acknowledge the power of the court to regulate the relationship between grandparents and grandchildren when the special circumstances of the case require it, taking into consideration the best interests of the minor. This, after the rupture of the family unit, whether due to the death of one of the parents, or as a result of a divorce, marriage annulment or separation, and when the parent or tutor with “patria potestas” is unjustifiably opposed to have his/her child maintain a relationship with his/her grandparents.

Traditionally, the figure of a grandparent is a source of tranquility, solace, protection and care. The State does not intend, in any way

whatsoever to interfere with the obligation of the parents to care for their minor children, provided they fulfill their parental obligations. In compliance with its duty as “*parens patriae*”, the State recognizes the right of the grandparents to visit their grandchildren within the juridical framework established in this Act.

The family is the cornerstone upon which Puerto Rican society rests and whereby the individual establishes and reaffirms his/her identity. Through this Act it is recognized that grandparents play a most important role within that nucleus called the family and that they contribute greatly to the physical, social and emotional development of their grandchildren. After the dissolution of the family unit, be it due to the death of one of the parents or a tutor, or as a result of a divorce, separation or annulment of the marriage, the parents or tutors with “*patria potestas*” or custody over a non-emancipated minor shall not, without just cause, prevent the latter from maintaining a relationship with his/her grandparents.

This measure in no way interferes with the right of custody or “*patria potestas*” over a child granted through the decision of a court. The legislative piece at hand shall provide grandparents with the right to be heard before a judge who shall decide whether to grant or deny visitation rights to the grandparents. We must make it very clear that this is not an automatic right since it shall be the court that will determine, case by case, and on the basis of what is best for the welfare of the minor, whether or not to grant visitation rights to the grandparents.

The purpose of this measure is to acknowledge the juridical legitimacy of the grandparents to appear in court to be heard regarding their right to visit their grandchildren subject to the limitations imposed herein and in consideration of the best interests of the minor.

***BE IT ENACTED BY THE LEGISLATURE OF PUERTO RICO:***

Section 1.- Section 152A is hereby added to the Puerto Rico Civil Code of 1930, as amended, to read as follows:

“Section 152A.- Rights of the grandparents

After the dissolution of the family unit, whether due to the death of one of the parents or as a result of a divorce, separation or annulment of the marriage, the parents or tutors with “patria potestas” or custody over a non-emancipated minor shall not, without just cause, prevent the latter from maintaining a relationship with his/her grandparents.

In the case of a non-emancipated minor born out of wedlock, neither the father, the mother nor the tutor with “patria potestas” and custody over said minor, shall prevent the latter, without just cause, from maintaining a relationship with his/her grandparents.

In case there is opposition from the father, mother or tutor with “patria potestas” and custody over said non-emancipated minor, the grandparents are recognized as having juridical legitimacy to be heard before a judge who shall decide the action to be taken considering the special circumstances of each case and the interests and welfare of the minor.”

Section 2.- Effectiveness

This Act shall take effect immediately after its approval and the benefits and rights granted herein shall apply retroactively.

February 23, 1999

José A. Figueroa-Lugo, Director of the Office of Legislative Services of the Legislature of Puerto Rico, hereby certifies to the Secretary of State that he has duly compared the English and Spanish texts of Act No. 182 (H.B. 608) of the 2nd Session of the 13th Legislature of Puerto Rico, entitled:

**AN ACT** to add Section 152A to the Puerto Rico Civil Code, as amended, in order to grant grandparents juridical legitimacy to appear in court to be heard on their visitation rights with regard to their minor non-emancipated grandchildren after the dissolution of the family unit due to the death of one of the parents, or a tutor, or as a result of a divorce, marriage annulment or separation; and to empower the court to issue the orders needed to validate said right, provided it is in the best interests of the minor,

and finds the same are complete, true and correct versions of each other.

José A. Figueroa-Lugo