

## Texas

Sec. 153.432. SUIT FOR POSSESSION OR ACCESS BY GRANDPARENT. (a) A biological or adoptive grandparent may request possession of or access to a grandchild by filing:

- (1) an original suit; or
- (2) a suit for modification as provided by

Chapter 156.

(b) A grandparent may request possession of or access to a grandchild in a suit filed for the sole purpose of requesting the relief, without regard to whether the appointment of a managing conservator is an issue in the suit.

(c) In a suit described by Subsection (a), the person filing the suit must execute and attach an affidavit on knowledge or belief that contains, along with supporting facts, the allegation that denial of possession of or access to the child by the petitioner would significantly impair the child's physical health or emotional well-being. The court shall deny the relief sought and dismiss the suit unless the court determines that the facts stated in the affidavit, if true, would be sufficient to support the relief authorized under Section 153.433.

Added by Acts 1995, 74th Leg., ch. 20, Sec. 1, eff. April 20, 1995.

Amended by:

Acts 2005, 79th Leg., Ch. [484](#), Sec. 3, eff. September 1, 2005.

Added by Acts 2009, 81<sup>st</sup> Leg., Ch. 1113, Sec. 11, eff. September 1, 2009.

Sec. 153.433. POSSESSION OF OR ACCESS TO GRANDCHILD. (a) The court may order reasonable possession of or access to a grandchild by a grandparent if:

(1) at the time the relief is requested, at least one biological or adoptive parent of the child has not had that parent's parental rights terminated;

(2) the grandparent requesting possession of or access to the child overcomes the presumption that a parent acts in the best interest of the parent's child by proving by a preponderance of the evidence that denial of possession of or access to the child would significantly impair the child's physical health or emotional well-being; and

(3) the grandparent requesting possession of or access to the child is a parent of a parent of the child and that parent of the child:

(A) has been incarcerated in jail or prison during the three-month period preceding the filing of the petition;

(B) has been found by a court to be incompetent;

(C) is dead; or

(D) does not have actual or court-ordered possession of or access to the child.

(b) An order granting possession of or access to a child by a grandparent that is rendered over a parent's objections must state, with specificity that:

(1) at the time the relief was requested, at least one biological or adoptive parent of the child had not had that parent's parental rights terminated;

(2) the grandparent requesting possession of or access to the child has overcome the presumption that a parent acts in the best interest of the parent's child by proving by a preponderance of the evidence that the denial of possession of or access to the child would significantly impair the child's physical health or emotional well-being;  
and

(3) the grandparent requesting possession of or access to the child is a parent of a parent of the child and that parent of the child:

(A) has been incarcerated in jail or prison during the three-month period preceding the filing of the petition;

(B) has been found by a court to be incompetent;

(C) is dead; or

(D) does not have actual or court-ordered possession of or access to the child.

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