



## **OPPOSE: House Bill 413—Expand Grandparent Visitation Rights**

*The North Carolina Family Policy Council opposes HB 413, because it would violate the fundamental right of parents to make decisions concerning the care, custody, and control of their children.*

- 1. Parental Rights are Fundamental Rights:** Both federal and state courts have determined parental rights to be fundamental rights. The U.S. Supreme Court and the N.C. Supreme Court have declared constitutional protections for the rights of parents to the care, custody, and control of their children. In *McIntyre v. McIntyre* (1995), the N.C. Supreme Court reaffirmed that parents have a “paramount right...to custody, care and nurture of their children,” which includes “with whom their children shall associate.” In *Troxel v. Granville* (2000), the U.S. Supreme Court ruled a Washington State third-party visitation statute unconstitutional based on the fundamental right of parents to “make decisions concerning the care, custody, and control of their children.” The High Court found, “the Due Process clause does not permit a State to infringe on the fundamental right of parents to make rearing decisions simply because a state judge believes a ‘better’ decision could be made.” Furthermore, North Carolina case law clearly establishes that grandparents do not have standing to sue for visitation when custody is not in dispute and the child is living with their natural parent(s) in an “intact family,” which can include a single-parent home.
- 2. Existing State Law Allows Grandparents to Seek Visitation Under Specific Limited Conditions:** North Carolina law allows grandparents to seek visitation rights in the following circumstances:
  - If the parents are divorcing and custody is at issue in an ongoing proceeding (G.S. 50-13.2);
  - With a showing of changed circumstances after custody has been determined (G.S. 50-13.5(j)); or
  - If the child is adopted by a stepparent or relative, and a substantial relationship exists between the grandparent and the child (G.S. 50-13.2A).
- 3. Practically Speaking:** The expanded rights proposed by HB 413 would allow grandparents to sue for visitation over the objection of a parent whose spouse has died, is incapacitated, or is incarcerated. The parent would be forced into court to defend their fundamental parental rights. Why should a parent whose spouse has died, is incapacitated, or is in jail, have less rights than another? Such claims also would force unwarranted public exposure of private family issues and empower the courts to make decisions with limited information about family circumstances that are often extremely complicated. The burden on intact families would be years of litigation, family turmoil and legal costs.
- 4. What About the Children?** While we are sensitive to the desires of the proponents of this bill, we must also consider the overall well-being of the children. Enabling grandparents to institute a legal action against the will of a parent would only exacerbate existing hostilities and estrangement between the parties. If visitation were granted, the child is likely to be caught in the middle of an already highly volatile situation.

***The North Carolina Family Policy Council opposes House Bill 413—Expand Grandparent Visitation Rights, and we respectfully request that you do the same.***