

**COALITION FOR THE RESTORATION
OF PARENTAL RIGHTS**
defending the fundamental rights of fit parents

Coalition for the Restoration of Parental Rights Supports A.01544

As a longtime member of, and attorney for, the Coalition for the Restoration of Parental Rights (CRPR), I write in support of A.01544. The proposed legislation would significantly reduce the harm done by a species of litigation that is almost always tragically counterproductive, and would provide greater protection to the fundamental constitutional rights of New York parents.

The filing of a suit for grandparent visitation is likely to be a fatal blow to any hope of future amicable relations between parent and grandparent -- and sociological research has shown that where there is hostility between parent and grandparent, grandparent-grandchild contact is much less likely to benefit the child. Grandparent visitation cases can be every bit as ugly, financially devastating, emotionally disruptive, and lengthy as divorce and post-divorce litigation. The resources that should go toward the child's education, enrichment, and future -- and too often, even the child's basic needs -- are instead spent on legal fees. The ultimate victims, deprived of not only these resources but of the parents' time and attention, and caught in an emotional cross-fire that may endure for years: the children whose best interests are supposed to be the motive for the melee. The detailed and public airing of family secrets and disagreements, in a process whose adversarial nature magnifies every disagreement, leaves a residue of anger, humiliation, and distrust which even further reduces the chances of a peaceful reconciliation between parent and grandparent. Meanwhile, the visitation order reduces the time the child can spend with parents and with other extended family members whose relationship to the parents is more harmonious. Given all the harm that can flow from such litigation, it is entirely appropriate, and in fact urgent, to make sure that the order sought would prevent at least as much harm as the litigation would be likely to inflict. A.01544 would go far toward accomplishing this end. Moreover, its requirement of a prior good faith attempt at reconciliation would in some, perhaps many, cases obviate any necessity for this damaging litigation to proceed.

As for what might give rise to a grandparent visitation lawsuit, without A.01544's restrictions on same: most parents welcome grandparents' involvement in their children's lives. Where this is not the case, it is most often the result of years of experience with the particular grandparent and child in question. A grandparent may be in denial about physical limitations, including those caused by prescription medication. A grandparent may put his or her desires, e.g. for overnight or out-of-state visitation, above the child's emotional readiness for such visitation. A grandparent may be unwilling to acknowledge a parent's adulthood and autonomy, speaking dismissively of or overriding parental rules. A grandparent may insist on arranging meetings between the child and some other relative against whom a protective order has been issued. A grandparent may resent the parent for his/her perceived role in a divorce. A grandparent may refuse to bother with such modern niceties as car seats and avoidance of allergens. A grandparent may have been physically, psychologically, or sexually abusive to the parent or others in the parent's generation. Overworked trial judges are in a poor position to second-guess a parent's decision or to absorb the history that led to it.

A.01544's requirement that petitioning grandparents be vetted in certain respects would protect children from at least some of the most dangerous of the many unfortunate situations that can result from overriding parental decisions on visitation.

A.01544 would also, if adopted, serve an important educational function. Not all family law attorneys, and not all trial court judges, are aware that trial court judges are required, as a matter of federal constitutional law, to start any grandparent visitation dispute with the presumption that a fit custodial parent's decision to limit or deny visitation is in the child's best interest. This change in New York law would increase the chances that grandparent visitation litigation will be conducted in accordance with this requirement.

Finally, A.01544's attorney fee provision will prevent grandparents from using litigation to coerce parents into accepting visitation arrangements they believe would not be in their children's best interests.

CRPR urges the legislature to pass A.01544 forthwith.

Sincerely,

Karen A. Wyle