



Rep. Sara Wojcicki Jimenez

Filed: 4/4/2018

10000HB4309ham002

LRB100 15441 HEP 37793 a

1 AMENDMENT TO HOUSE BILL 4309

2 AMENDMENT NO. _____. Amend House Bill 4309 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title; references to Act.

5 (a) Short title. This Act may be cited as the Frail Elderly
6 Individual Family Visitation Protection Act.

7 (b) References to Act. This Act may be referred to as the
8 Kasem/Baksys Visitation Law.

9 Section 5. Definitions. As used in this Act:

10 "Family caregiver" means an adult family member who is a
11 provider of in-home care to a frail elderly individual.

12 "Family member" means the spouse, adult child, adult
13 grandchild, or other close relative of the frail elderly
14 individual.

15 "Frail elderly individual" means an adult over 60 years of
16 age who is determined by a court to be functionally impaired

1 because the person: (i) is unable to perform at least 2
2 activities of daily living without substantial human
3 assistance, including verbal reminding, physical cueing, or
4 supervision; or (ii) due to a cognitive or other mental
5 impairment, requires substantial supervision because the
6 person behaves in a manner that poses a serious health or
7 safety hazard to the person or to another person.

8 "Petitioner" means the family member who files a verified
9 petition for visitation under Section 10 of this Act.

10 Section 10. Visitation with frail elderly individuals.

11 (a) If a family caregiver unreasonably prevents a family
12 member from visiting the frail elderly individual, the court,
13 upon a verified petition by the family member, may order the
14 family caregiver to permit such visitation as the court deems
15 reasonable and appropriate under the circumstances.

16 (b) At the hearing on the verified petition for visitation,
17 the court shall consider:

18 (1) the nature and extent of the frail elderly
19 individual's functional impairment;

20 (2) the frail elderly individual's previously
21 expressed preferences in regard to visitation with the
22 petitioner;

23 (3) the history of visitation between the frail elderly
24 individual and the petitioner;

25 (4) the opinions of any family members and the family

1 caregiver with respect to visitation between the
2 petitioner and the frail elderly individual; and

3 (5) any other area of inquiry deemed appropriate by the
4 court under the circumstances.

5 (c) The court shall not allow visitation if the court finds
6 that: (i) the frail elderly individual has capacity to evaluate
7 and communicate decisions regarding visitation and expresses a
8 desire to not have visitation with the petitioner; or (ii)
9 visitation between the petitioner and the frail elderly
10 individual is not in the best interests of the frail elderly
11 individual.

12 (d) Guardian ad litem for frail elderly individual.

13 (1) The court may appoint a guardian ad litem for the frail
14 elderly individual if it determines such appointment to be in
15 the frail elderly individual's best interests.

16 (2) The court shall appoint a guardian ad litem for the
17 frail elderly individual if the frail elderly individual does
18 not appear at the hearing or is unable to appear due to
19 hardship.

20 (3) The court may award reasonable compensation to a
21 guardian ad litem appointed under this Act. The petitioner
22 shall pay the court-awarded compensation due to the guardian ad
23 litem, except if the court grants the verified petition for
24 visitation and finds that the family caregiver acted
25 maliciously in denying visitation between the petitioner and
26 the frail elderly individual, then the family caregiver shall

1 pay the court-awarded compensation due the guardian ad litem.

2 Section 15. Notice of hospitalization, change or
3 residence, or death of frail elderly individual. If the court
4 grants the petition of a family member for visitation in
5 accordance with Section 10, the court may also order the family
6 caregiver to use reasonable efforts to notify the petitioner of
7 the frail elderly individual's hospitalization, admission to a
8 healthcare facility, change in permanent residence, or death.

9 Section 20. Commencement of proceeding; notice.

10 (a) A proceeding under this Act shall be commenced in the
11 court of the county in which the frail elderly individual
12 resides.

13 (b) The frail elderly individual and family caregiver shall
14 be personally served with a copy of the verified petition for
15 visitation and a summons not less than 14 days before the
16 hearing. The form of the summons shall be in the manner
17 prescribed by subsection (c) of Supreme Court Rule 101.

18 (c) The petitioner shall provide notice of the time, date,
19 and place of the hearing by mail to any other family members
20 not less than 14 days before the hearing. All other notices
21 during the pendency of the proceeding shall be served in
22 accordance with Supreme Court Rules 11 and 12.

23 Section 25. Applicability. This Act does not apply if: (i)

1 the frail elderly individual is a person under guardianship
2 pursuant to Article XIa of the Probate Act of 1975; or (ii) the
3 family caregiver is acting as agent under a power of attorney
4 or acting at the direction of an agent under a power of
5 attorney pursuant to the Illinois Power of Attorney Act."