

As Introduced

132nd General Assembly

Regular Session

2017-2018

H. B. No. 527

Representative LaTourette

Cosponsors: Representatives Antonio, Arndt, Kick, Romanchuk, Smith, K.

A BILL

To enact section 2111.132 of the Revised Code to
allow certain specified persons to petition the
probate court for reasonable visitation with an
incompetent or ward if visitation between the
person and the incompetent or ward has been
interfered with or denied.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That section 2111.132 of the Revised Code be
enacted to read as follows:

Sec. 2111.132. (A) As used in this section, "interested
person" means any person who has a significant, ongoing
relationship with an incompetent or ward based on strong
affection.

(B) There is a rebuttable presumption that it is in the
best interest of an incompetent or ward to have visitation from
the incompetent's or ward's spouse, adult child, adult
grandchild, parent, adult sibling, or other interested person.

(C) (1) A spouse, adult child, adult grandchild, parent,
adult sibling, or other interested person may petition the

probate court in the county where the incompetent or ward 19
resides or in the probate court that appointed a guardian for 20
the ward for reasonable visitation with the incompetent or ward. 21

(2) The petition for reasonable visitation shall include 22
the following information: 23

(a) That the petitioner is a person specified in division 24
(B) of this section; 25

(b) That the petitioner's visitation with the incompetent 26
or ward has been unreasonably interfered with or denied; 27

(c) The identity of the person or persons who have 28
unreasonably interfered with or denied the petitioner's 29
visitation with the incompetent or ward. 30

(3) Service of summons, by certified mail, upon that 31
petition shall be issued and served on the incompetent or ward 32
who is the subject of the petition, the guardian, if applicable, 33
and any individual alleged to have interfered with or denied 34
visitation between the incompetent or ward and the petitioner. 35

(D) If an incompetent or ward has the ability to consent 36
to the visitation between the incompetent or ward and the 37
petitioner and the incompetent or ward objects to the petition, 38
the petitioner has the burden to prove by clear and convincing 39
evidence that the incompetent's or ward's objection to the 40
petition was procured by undue influence. 41

(E) If a person other than the incompetent or ward seeks 42
to rebut the presumption set forth in division (B) of this 43
section, that person has the burden of proving by clear and 44
convincing evidence that the visitation is not in the best 45
interest of the incompetent or ward because the petitioner has 46
caused physical or financial harm against an elderly person or 47

the visitation would be harmful to the physical or mental health 48
of the incompetent or ward. 49

(F) (1) In ruling on a petition for reasonable visitation 50
under this section, the probate court shall issue a statement of 51
facts and law. The court may impose reasonable restrictions on 52
the visits, including reasonable time or frequency limitations 53
or requiring the visits to be monitored. The court shall 54
consider imposing those reasonable restrictions on visitation 55
before denying a petition. 56

(2) The probate court may assess costs of the petition or 57
visitation, including the costs of monitoring visits, on any 58
party to the proceeding. The court may also impose sanctions in 59
the amount of reasonable attorney's fees against a petitioner 60
who brings a petition under this section in bad faith or against 61
a party that unjustifiably interferes with or denies visitation 62
between the petitioner and the incompetent or ward. The court 63
shall not assess costs or sanctions against an incompetent or 64
ward that is the subject of the petition. 65

Section 2. The General Assembly, in enacting this act, 66
hereby declares that every adult in this state has the right to 67
visit with, and receive mail and telephone or electronic 68
communications from, whomever the adult so chooses, unless a 69
court has specifically ordered otherwise. 70