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ADVANCE SHEET HEADNOTE
June 9, 2025

2025 CO 35

No. 24SC788, *In re Parental Responsibilities Concerning K.M.S.* – Statutory Construction – Plain Language – Standing – Grandparent Visitation.

The supreme court considers standing to seek grandparent visitation pursuant to section 19-1-117, C.R.S. (2021), and concludes that, in accord with the definition of “grandparent” under section 19-1-103(70)(a), C.R.S. (2021), such standing is limited to one who is presently the parent of a child’s father or mother. Under Colorado law, upon adoption, the adoptive parties become, for all intents and purposes, the child’s sole parents. Accordingly, following an adoption, the parents of a child’s former father or mother no longer meet the statutory definition of “grandparent.” Thus, the supreme court holds that after children are adopted, the parents of a deceased father or mother lack standing to seek grandparent visitation.

The Supreme Court of the State of Colorado
2 East 14th Avenue • Denver, Colorado 80203

2025 CO 35

Supreme Court Case No. 24SC788
Certiorari to the Colorado Court of Appeals
Court of Appeals Case No. 24CA253

In re the Parental Responsibilities Concerning Children:

K.M.S., M.D.S., and R.E.S.,

and Concerning

Petitioners:

Suzanne Nicolas and August Nicolas,

and

Respondents:

Jayne Mecque Sullivan and Daniel Francis Sullivan.

Judgment Reversed

en banc

June 9, 2025

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JUSTICE BOATRIGHT delivered the Opinion of the Court, in which **JUSTICE HOOD, JUSTICE HART, and JUSTICE SAMOUR** joined.
JUSTICE BERKENKOTTER, joined by **CHIEF JUSTICE MÁRQUEZ**, and **JUSTICE GABRIEL**, dissented.

JUSTICE BOATRRIGHT delivered the Opinion of the Court.

¶1 This appeal considers grandparent visitation rights for three young children whose biological parents, Brandon and Amanda Sullivan, are deceased. After the children’s biological mother and father died, Suzanne and August Nicolas (“the Nicolases”) – Amanda’s parents – adopted them. After the adoption was finalized, Jayne Mecque and Daniel Francis Sullivan (“the Sullivans”) – Brandon’s parents – moved for, and were granted, grandparent visitation pursuant to section 19-1-117, C.R.S. (2021).¹ The Nicolases later moved to vacate the visitation order, arguing that the Sullivans lacked standing to seek visitation. The domestic relations court found that the Sullivans did have standing and denied the motion to vacate the visitation order. A division of the court of appeals affirmed. *In re Parental Responsibilities Concerning K.M.S.*, No. 24CA253, ¶ 1 (Nov. 7, 2024). We granted certiorari to review whether the division erred in affirming the domestic relations court’s order upholding the Sullivans’ standing to seek grandparent visitation.²

¹ Section 19-1-117, along with portions of section 19-1-103, C.R.S. (2021), were later amended and recodified as section 14-10-124.4, C.R.S. (2024). *See* Ch. 243, sec. 2, § 14-10-124.4, 2023 Colo. Sess. Laws 1302, 1302-05. Because the statutes in effect in 2021 control this case, we apply them in our analysis.

² Specifically, we granted certiorari to review the following issue:

¶2 We now determine that grandparent standing is limited by section 19-1-103(70)(a), C.R.S. (2021), to one who *is presently* the parent of a child’s father or mother. Accordingly, following an adoption, the parents of a child’s *former* mother or father are no longer “grandparents” under the statute. We therefore hold that after children are adopted, the parents of a deceased father or mother lack standing to seek grandparent visitation. Because the Nicolases were the children’s parents when the Sullivans filed their petition for visitation, the Sullivans were no longer legal grandparents; hence, the Sullivans lacked standing to seek grandparent visitation. We therefore reverse the judgment of the court of appeals and remand the case for further proceedings consistent with this opinion.

I. Facts and Procedural History

¶3 In 2020, Brandon killed both his wife, Amanda, and himself, leaving behind a two-year-old child and infant twins: R.E.S., K.M.S., and M.D.S. During the ensuing probate proceedings, the court appointed the Nicolases as the children’s emergency, and then permanent, guardians.³ The court also approved a stipulated grandparent visitation plan allowing the Sullivans to regularly visit the children.

Whether parents of a deceased father or mother have standing to seek “grandparent” visitation of children adopted by two new parents.

³ Following the death of the children’s biological parents, the Nicolases petitioned for emergency guardianship in the probate cases. The Sullivans later filed competing requests for guardianship in those same cases.

¶4 The following year, the Nicolases adopted the three children. The probate court thereafter closed the proceedings and transferred all matters concerning the children into a previously stayed domestic relations case initiated by the Sullivans. The Sullivans then filed a motion for grandparent visitation in that case under section 19-1-117.⁴ The domestic relations court issued a visitation order awarding grandparent visitation to the Sullivans.

¶5 A year and a half later, the Nicolases filed a C.R.C.P. 60(b)(3) motion for relief from judgment, seeking to vacate the visitation order as void. The Nicolases argued that, following their adoption of the children, the Sullivans were no longer the children's grandparents, meaning they lacked standing to seek grandparent visitation. In doing so, the Nicolases relied on the present-tense language in section 19-1-103(70)(a), which defines "[g]randparent" as "a person who *is* the parent of a child's father or mother, who is related to the child by blood, in whole or by half, adoption, or marriage." (Emphasis added.) The Nicolases asserted that, because they (rather than Brandon and Amanda) were the children's parents when the Sullivans filed their petition for visitation, the Sullivans were no longer the children's legal grandparents. The domestic relations court denied the motion,

⁴ While the Sullivans did submit other filings to the court across the relevant cases pertaining to their involvement with the children, they did not file a verified motion for grandparent visitation until *after* the Nicolases adopted the children.

reasoning that a “literal interpretation of the term ‘parent’ would be inconsistent with the intent of the statute and the interpretation of grandparent visitation in [prior] appellate cases.”

¶6 The Nicolases appealed, and a division of the court of appeals affirmed. *K.M.S.*, ¶ 1. In upholding the Sullivans’ standing to seek grandparent visitation, the division rejected the Nicolases’ interpretation of section 19-1-103(70)(a) as inconsistent with the overarching statutory scheme for grandparent visitation and one that would render other statutes superfluous — namely section 19-1-117(1)(b), which allows grandparents to seek visitation when custody has been allocated to a non-parent, *except* when the child has been adopted. *Id.* at ¶¶ 15, 19. Moreover, the division concluded that section 19-1-103(70)(a) “contained no language temporally restricting the definition of grandparent to the parents of the child’s father or mother *as of the date of the petition* [for grandparent visitation].” *Id.* at ¶ 21.

¶7 We granted certiorari.

II. Analysis

¶8 We must first acknowledge the tragic nature of the case before us. Both families have suffered irreparable harm, and it is clear from the record that both the Nicolases and the Sullivans care deeply for the children and wish to be involved in their lives. As the domestic relations court noted in its order for grandparent visitation: “[T]he underlying tragedy that resulted in this proceeding,

the guardianships, and the adoptions, was the simultaneous death of the children's parents." We recognize that this loss, and the uniquely difficult circumstances that surround it, present profound challenges for those involved, for which there is almost assuredly no satisfactory legal outcome. Despite this, we must rule for one party and against the other. We granted certiorari to review the court of appeals' decision upholding the Sullivans' right to grandparent visitation, and we now turn to the matter at hand.

¶9 We begin by discussing the applicable standard of review. We then turn to the relevant provisions of the Children's Code, particularly the grandparent visitation statute. Construing the statutory language to effectuate its plain and ordinary meaning, we hold that after children are adopted, the parents of a deceased father or mother lack standing to seek grandparent visitation.

A. Standard of Review and Rules of Statutory Construction

¶10 "Whether a party has standing is a question of law that we review de novo." *Aurora Pub. Schs. v. A.S.*, 2023 CO 39, ¶ 25, 531 P.3d 1036, 1044. Standing pertains to "a litigant's right to raise a legal argument or claim," *Reeves-Toney v. Sch. Dist. No. 1 in City & Cnty. of Denver*, 2019 CO 40, ¶ 21, 442 P.3d 81, 85-86, and is "a threshold issue that must be satisfied in order to decide a case on the merits," *Ainscough v. Owens*, 90 P.3d 851, 855 (Colo. 2004).

¶11 “When a plaintiff brings a claim under a statute, the standing inquiry turns on whether the statutory provision ‘can properly be understood as granting persons in the plaintiff’s position a right to judicial relief.’” *Vickery v. Evelyn V. Trumble Living Tr.*, 277 P.3d 864, 868 (Colo. App. 2011) (quoting *Pomerantz v. Microsoft Corp.*, 50 P.3d 929, 932 (Colo. App. 2002)). Addressing this inquiry concerns “matters of statutory interpretation that we review de novo.” *Masterpiece Cakeshop, Inc. v. Scardina*, 2024 CO 67, ¶ 22, 556 P.3d 1238, 1245.

¶12 In construing the relevant statutes, our primary task “is to ascertain and give effect to the intent of the General Assembly.” *In re Marriage of Ikeler*, 161 P.3d 663, 666 (Colo. 2007). In doing so, we consider the statute as a whole, giving “consistent, harmonious, and sensible effect to all its parts.” *Id.* at 666–67. We begin by looking to the language of the statute, giving words and phrases their plain and ordinary meaning. *People v. Dist. Ct.*, 713 P.2d 918, 921 (Colo. 1986). When possible, “we must give effect to every word of the statute.” *Charlton v. Kimata*, 815 P.2d 946, 949 (Colo. 1991). We defer to the legislature’s choice of language, and “we will not add words to a statute or subtract words from it.” *Dep’t of Revenue v. Agilent Techs., Inc.*, 2019 CO 41, ¶ 16, 441 P.3d 1012, 1016. If the language of the statute is clear and unambiguous, we “need not resort to other rules of statutory construction.” *Id.* We apply the statute as written. *Id.*

B. Parents of a Deceased Father or Mother Lack Standing to Seek Grandparent Visitation Post-Adoption

¶13 Section 19-1-117(1) allows a grandparent to seek visitation rights “when there is or has been a child custody case or a case concerning the allocation of parental responsibilities relating to that child.” The statute delineates three circumstances that may give rise to motions for grandparent visitation: (1) marriage dissolution proceedings, (2) the allocation of custody or parental rights to a non-parent, or (3) the death of a child’s parent. § 19-1-117(1)(a)–(c). Specifically, the statute provides that a grandparent may seek visitation rights in the following situations:

- (a) That the marriage of the child’s parents has been declared invalid or has been dissolved by a court or that a court has entered a decree of legal separation with regard to such marriage;
- (b) That legal custody of or parental responsibilities with respect to the child have been given or allocated to a party other than the child’s parent or that the child has been placed outside of and does not reside in the home of the child’s parent, excluding any child who has been placed for adoption or whose adoption has been legally finalized; or
- (c) That the child’s parent, who is the child of the grandparent . . . has died.

Id.

¶14 For purposes of the visitation statute, “[g]randparent” is defined as “a person who *is* the parent of a child’s father or mother, who is related to the child by blood, in whole or by half, adoption, or marriage.” § 19-1-103(70)(a) (emphasis

added). The statute further provides that for purposes of visitation, “‘grandparent’ does not include the parent of a child’s legal father or mother whose parental rights have been terminated.” § 19-1-103(70)(b). The question here is whether the Sullivans, following the Nicolases’ adoption of the children, still qualify as the children’s grandparents.

¶15 The Sullivans first argue that, because the exclusion of “grandparent” in section 19-1-103(70)(b) is specific to the termination of parental rights, they remained “grandparents” for purposes of section 19-1-117(1)(c) (allowing grandparents to seek visitation when the child’s parent has died). They contend that the Nicolases’ present-tense reading is overbroad because it would mean that the Sullivans lost their status as grandparents immediately upon Brandon’s death—an absurd result.

¶16 The Sullivans also note that, although section 19-1-117(1)(b) contains an adoption exclusion, subsection (c) contains no such limitation. § 19-1-117(1)(b) (grandparents cannot seek visitation rights for a child “who has been placed for adoption or whose adoption has been legally finalized”); § 19-1-117(1)(c) (providing for the death of a child’s parent as a basis upon which to seek visitation). Therefore, the Sullivans maintain that the legislature did not intend for any exclusion to apply when one or both parents have died.

¶17 In addressing these arguments, we begin with the principle that, under this state’s law, “a child is limited to having just two legal parents.” *People in Int. of K.L.W.*, 2021 COA 56, ¶ 21, 492 P.3d 392, 397. And Colorado law is clear that “[a]fter the entry of a final decree of adoption, the person adopted is, for all intents and purposes, the child of the petitioner.” § 19-5-211(1), C.R.S. (2024). Concordantly, upon adoption, the child’s former parents are “divested of all legal rights and obligations with respect to the child.”⁵ § 19-5-211(2). Thus, adoption by two new parents necessarily terminates any prior parental relationships. *See Int. of Baby A*, 2015 CO 72, ¶ 17, 363 P.3d 193, 200 (recognizing that, where a biological father sought to void his termination of parental rights after an adoption had been finalized, “we must make a determination adverse to one party” – implying all three could not be parents); *see also D.P.H. v. J.L.B.*, 260 P.3d 320, 323 (Colo. 2011) (noting that “a proceeding for stepparent adoption necessarily includes the termination of the parental rights of the non-custodial parent”).

¶18 The Sullivans assert that their son continued to be a parent to the children—even after his death *and* their adoption by the Nicolases. But this argument goes too far. To be sure, the death of a parent does not instantly nullify

⁵ There is an exception when the adopting parent is a stepparent who is married to the other natural parent. *See* § 19-5-211(3).

grandparentage. Yet, an adoption does just that. Specifically, “[p]arent” is defined as “*either a natural parent of a child . . . or a parent by adoption.*” § 19-1-103(105)(a) (emphases added). This disjunctive phrasing suggests that once adoptive parties become parents, decedents are no longer recognized as legal parents. *See Armintrout v. People*, 864 P.2d 576, 581 (Colo. 1993) (“[W]hen the word ‘or’ is used in a statute, it is presumed to be used in the disjunctive sense, unless legislative intent is clearly to the contrary.”).

¶19 Turning to section 19-1-103(70)(a), the statutory definition of “[g]randparent” is written in the present tense: “a person who *is* the parent of a child’s father or mother.” (Emphasis added.) Again, “[t]he fundamental rule of construction is to ascertain the intent of the legislature, and to give effect to *every word* of an enactment.” *Johnston v. City Council*, 493 P.2d 651, 654 (Colo. 1972) (emphasis added). Yet the Sullivans’ proposed construction essentially alters the statutory definition to read that a grandparent “*is or was*” or “*has been*” the parent of a child’s father or mother. We decline to adopt such an interpretation. *See Dep’t of Revenue*, ¶ 16, 441 P.3d at 1016 (“[W]e will not add words to a statute . . .”). Therefore, we determine that the statute’s plain language imposes a temporal limitation, restricting “grandparent” to one who *is* a grandparent at the time the petition for visitation is filed.

¶20 The Sullivans assert that this interpretation conflicts with section 19-1-103(70)(b), which excludes from the definition of “grandparent” the parent of a “legal father or mother whose parental rights have been terminated.” We disagree. Just because the Sullivans are not *excluded* by subsection (70)(b) does not mean they are *included* in subsection (70)(a). Rather, subsection (70)(b)’s exclusion merely clarifies the limits of the general definition, making it evident that for visitation purposes, subsection (70)(a) “does not include” the parent of one “whose parental rights have been terminated,” § 19-1-103(70)(b).

¶21 Nor does this interpretation negate section 19-1-117(1)(b)’s adoption exclusion, which specifically precludes a motion for grandparent visitation when a child “has been placed for adoption or whose adoption has been legally finalized” in cases allocating custody or parental responsibilities to a non-parent. The court of appeals division determined that construing section 19-1-103(70)(a) as preventing grandparents from seeking visitation following the adoption of a child by two new parents would render section 19-1-117(1)(b)’s adoption exclusion “largely superfluous.” *K.M.S.*, ¶ 19. But the adoption exclusion applies to additional circumstances—such as when a child is *placed* for adoption, yet the parents of the child’s mother and father remain grandparents under section 19-1-103(70)(a). Moreover, as both parties acknowledged, the legislature may take a “belt-and-suspenders” approach to “avoid unintended gaps.” *Pugin v. Garland*,

599 U.S. 600, 609, 610 n.3 (2023). Rather than being superfluous, section 19-1-117(1)(b)'s adoption exclusion simply extinguishes any potential ambiguity regarding whether the right to seek visitation survives a finalized adoption. Thus, while perhaps repetitious in certain cases, the adoption exclusion is not rendered meaningless by our interpretation of "grandparent" as one who is presently the parent of a child's mother or father.

¶22 Our interpretation accords with "the bedrock principle that the right to parent one's children is a fundamental liberty interest." *People in Int. of J.G.*, 2016 CO 39, ¶ 20, 370 P.3d 1151, 1158; *see also Troxel v. Granville*, 530 U.S. 57, 72 (2000) (upholding a mother's fundamental right to make decisions about her children in the context of grandparent visitation). Consistent with this right, the decisions of parents receive primary consideration as to the care, custody, and control of their children. *See Troxel*, 530 U.S. at 65–66; *see also Prince v. Massachusetts*, 321 U.S. 158, 166 (1944) ("It is cardinal with us that the custody, care and nurture of the child reside first in the parents."). Notably, as stated by the Supreme Court in *Troxel*, the decision whether "an intergenerational relationship [between grandparents and their grandchildren] would be beneficial in any specific case is for the parent to make in the first instance." 530 U.S. at 70. And, as we have recognized, "adoptive parents have the same right as natural parents in controlling the upbringing of their child." *In re Adoption of C.A.*, 137 P.3d 318, 326 (Colo. 2006).

¶23 We therefore find that standing to seek grandparent visitation is limited to one who is the present parent of a child’s father or mother.⁶ Accordingly, we hold that after children are adopted, the parents of a deceased father or mother lack standing to seek grandparent visitation. To hold otherwise would defy the statutory premise that a “person adopted is, for all intents and purposes, the child of the [new parents].” § 19-5-211(1).

C. The Sullivans Lacked Standing Under the Grandparent Visitation Statute

¶24 Immediately after the deaths of the children’s biological parents, both the Nicolases and the Sullivans remained the children’s legal grandparents. However, the Nicolases then adopted the children, at which point the Nicolases became the children’s *parents*. We again emphasize that the children’s adoption was the legally dispositive event in this case, rather than the death of their biological

⁶ Other jurisdictions that have addressed post-adoption visitation have similarly denied standing to former grandparents where the statute at issue defines “grandparent” as the parent of a child’s mother or father. *See, e.g., Lindsay v. Walker*, 356 P.3d 195, 199 (Utah Ct. App. 2015) (concluding that the biological grandparent was unable to meet the statutory definition of a “grandparent” after the child’s adoption by new parents); *see also Jocham v. Sutliff*, 26 N.E.3d 82, 87 (Ind. Ct. App. 2015) (concluding that a biological grandparent had no standing to seek visitation with the adopted child). Courts have also relied on adoption statutes to hold that an “adoption completely abrogates the legal relationship between a child and his natural grandparents.” *Bopp v. Lino*, 885 P.2d 559, 563 (Nev. 1994); *see also Sowers v. Tsamolias*, 941 P.2d 949, 950 (Kan. 1997) (noting that an adopted child “has new parents and new grandparents as well”).

parents. Accordingly, when the Sullivans thereafter petitioned for grandparent visitation under section 19-1-117, they were not the “parent[s] of [the children’s] father or mother,” meaning they were no longer grandparents under section 19-1-103(70)(a).⁷ Thus, the Sullivans lacked standing to seek grandparent visitation under section 19-1-117(1).⁸

III. Conclusion

¶25 For these reasons, we reverse the judgment of the court of appeals and remand the case for further proceedings consistent with this opinion.

JUSTICE BERKENKOTTER, joined by **CHIEF JUSTICE MÁRQUEZ**, and **JUSTICE GABRIEL**, dissented.

⁷ The Sullivans argue that the Nicolases should be estopped from claiming that the Sullivans lack standing to seek grandparent visitation. Specifically, the Sullivans contend that they relied on the Nicolases’ prior representations—i.e., that the Nicolases intended for the Sullivans to retain visitation rights post-adoption—such that it is now unjust for the Nicolases to reverse course and attempt to void the visitation order. But the Sullivans cannot rely on estoppel to revive their since-extinguished lack of standing, which is a jurisdictional question. *Cf. Mesa Cnty. Valley Sch. Dist. No. 51 v. Kelsey*, 8 P.3d 1200, 1206 (Colo. 2000) (“[S]ubject-matter jurisdiction cannot be waived or conferred by consent, estoppel, or laches.”).

⁸ Because we find that the Sullivans are precluded from seeking visitation under the statutory definition of “grandparent,” we need not decide whether the adoption exclusion contained in section 19-1-117(1)(b) applies to this case.

JUSTICE BERKENKOTTER, joined by CHIEF JUSTICE MÁRQUEZ, and JUSTICE GABRIEL, dissenting.

¶26 When the General Assembly passed the Grandparent Visitation Statute, § 19-1-117(1), C.R.S. (2021), it created three distinct paths for grandparents to request a court order granting them reasonable visitation rights with their grandchildren. One of these paths grants grandparents standing to seek visitation rights in certain domestic relations cases. Another does so in certain dependency and neglect cases, subject to what is known as the “adoption exclusion.” The third path grants grandparents standing to seek visitation if their child (the grandchild’s parent) has died.

¶27 Notwithstanding the plain language creating these three independent bases for grandparent standing, the majority looks to the definition of grandparent in section 19-1-103(70)(a), C.R.S. (2021), and concludes that the Grandparent Visitation Statute doesn’t actually say what it says. A grandparent, in the majority’s view, is limited to a person who “*is presently* the parent of a child’s father or mother.” Maj. op. ¶ 2. To illustrate, this means that if twelve-year-old Patrick is adopted by a great-aunt and great-uncle after losing both of his parents in a tragic car accident, his grandparents are no longer his grandparents. Instead, using the words of the majority, upon his adoption, his grandparents became the parents of Patrick’s “*former* mother or father.” *Id.* This time-bending notion of

parenthood and grandparenthood was not contemplated by the legislature, particularly in light of the explicit path it carved out in section 19-1-117(1)(c) to allow a grandparent to seek grandparent visitation upon the death of their child. It also is at odds with the General Assembly's expansive definition in section 19-1-103(70) of what it means to be a grandparent.

¶28 I write separately because the majority's interpretation (1) disregards the plain language of the Grandparent Visitation Statute and (2) misconstrues the definitions of "grandparent" in sections 19-1-103(70)(a) and (b). For these reasons, which I further detail below, I respectfully dissent.

I. Analysis

¶29 I begin with the Grandparent Visitation Statute. The statute "allows a grandparent to seek 'reasonable grandchild visitation rights' when there is a child custody case or a case concerning the allocation of parental responsibilities." *In re Adoption of C.A.*, 137 P.3d 318, 323 (Colo. 2006) (quoting § 19-1-117(1), C.R.S. (2005)). Section 19-1-117(1) provides three bases upon which grandparents may petition for visitation:

- (a) That the marriage of the child's parents has been declared invalid or has been dissolved by a court or that a court has entered a decree of legal separation with regard to such marriage;
- (b) That legal custody of or parental responsibilities with respect to the child have been given or allocated to a party other than the child's parent or that the child has been placed outside of and does not reside

in the home of the child's parent, excluding any child who has been placed for adoption or whose adoption has been legally finalized; *or*

(c) That the child's parent, who is the child of the grandparent or grandchild of the great-grandparent, has died.

(Emphasis added.)

¶30 The plain language of the statute demonstrates that the General Assembly intended to treat each of these circumstances differently. Its use of the disjunctive “or” at the end of section 19-1-117(1)(b), in particular, confirms that it intended each circumstance to constitute an independent basis for grandparent visitation requests. “[W]hen the word ‘or’ is used in a statute, it is presumed to be used in the disjunctive sense, unless legislative intent is clearly to the contrary.” *Armintrout v. People*, 864 P.2d 576, 581 (Colo. 1993).

¶31 Thus, a grandparent whose child is a respondent in a dependency and neglect proceeding may request reasonable visitation under section 19-1-117(1)(b) if their grandchild is placed outside of the respondent's home. But, under the adoption exclusion, if the respondent's parental rights are terminated and the grandchild is placed for adoption or an adoption has been finalized, the grandparent no longer has standing to seek visitation. By contrast, a grandparent whose child has died may request reasonable visitation with their deceased child's minor offspring under section 19-1-117(1)(c) at any time. This is because section 19-1-117(1)(c) does not include an adoption or any other kind of exclusion.

If the General Assembly intended to treat both of these circumstances the same, it would not have included a specific provision that grants standing to grandparents who have lost a child, § 19-1-117(1)(c), and a separate, far narrower provision that grants grandparent standing in certain dependency and neglect proceedings, § 19-1-117(1)(b). This difference is a forceful indication that the legislature intended to treat the familial relationships legally severed via termination and adoption differently than those touched by the death of a child's parent. *See In re Petition of R.A.*, 66 P.3d 146, 149–50 (Colo. App. 2002) (holding that a parent's death results in a lapse, and not a termination, of parental rights).

**A. The Majority's Reasoning Does Not Square with
Section 19-1-117(1)**

¶32 Nonetheless, the majority concludes that “after children are adopted, the parents of a deceased father or mother lack standing to seek grandparent visitation.” Maj. op. ¶ 23. In my view, this interpretation, with its universal bar following adoption, is undermined by section 19-1-117(1) for three reasons. First, as noted, the majority's interpretation disregards the use of the disjunctive “or” in the statute. Second, the majority's interpretation doesn't honor the General Assembly's decision to explicitly carve out the death of a child's parent as an independent basis to seek grandparent visitation because it only permits visitation, if both parents have died, until the child is adopted—essentially merging sections 19-1-117(1)(b) and (1)(c). And third, if the General Assembly

intended to limit a grandparent's standing in this fashion, it could have included an adoption exclusion in section 19-1-117(1)(c). Yet, it did not do so. "Under the rule of interpretation *expressio unius exclusio alterius*, the inclusion of certain items implies the exclusion of others." *Beeghly v. Mack*, 20 P.3d 610, 613 (Colo. 2001). Here, the legislature specifically limited grandparent standing in section 19-1-117(1)(b) in a way that it did not in section 19-1-117(1)(c). As I've explained, this choice has substantive meaning. It also shows that the legislature knows how to craft this type of exclusion when it wants to do so.

B. The Majority's Reasoning Is Also at Odds with Section 19-1-103(70)

¶33 The language in section 19-1-103(70) also undermines the majority's reasoning. The differences in the text in section 19-1-103(70)(a) and section 19-1-103(70)(b), in particular, are instructive. In section 19-1-103(70)(a), grandparent is defined expansively as: "a person who is the parent of a child's father or mother, who is related to the child by blood, in whole or by half, adoption, or marriage." Section 19-1-103(70)(b), in turn, limits the term grandparent, explaining that it "does not include the parent of a child's *legal* father or mother whose parental rights have been terminated" under other specified Colorado laws. (Emphasis added.) Notably, the language in section 19-1-103(70)(b), which seems to neatly align with section 19-1-117(1)(b), explicitly excludes the parent of a child's legal father or mother whose parental

rights have been terminated. It does not exclude a grandparent whose child has died. *See R.A.*, 66 P.3d at 149–50.

¶34 The majority reads the language in section 19-1-103(70)(a) as a sort of temporal limit on who can be a grandparent. In its view, only “a person who *is presently* the parent of a child’s father or mother” is a grandparent. *Maj. op.* ¶ 2. It claims that the use of the present tense unambiguously restricts a grandparent to one who *is* a grandparent *at the time the petition is filed*. *Id.* But the statute does not actually say this. The statute contains no language temporally restricting the definition of grandparent to the parent of the child’s father or mother *as of the date of the petition*.

¶35 Moreover, a biological parent *is* a parent in life and in death. That is, when a child loses a parent, whether the child is three or fifty-three, their parent remains their parent forever. The biological relationship does not change if a young child loses both parents and is later adopted. That is not to take anything away from the adoptive parent, who is also a parent. It’s simply that the relationship between the parent who died and the child who survived transcends time in a way our language reflects. We refer, for example, to our deceased family members even if they died decades ago as “my father” and “my mother,” not “my *former* father” and “my *former* mother.”

¶36 This commonsense understanding of the enduring nature of this relationship does not, however, run afoul of the principle that a child can't have more than two legal parents at a time. Moreover, upon death, the deceased parent's parental rights lapse, but they are not terminated. *R.A.*, 66 P.3d at 149-50. Thus, acknowledging the blood relation between a grandparent and grandchild, after the child's parents have died, does not create the possibility of the child having a third parent. Further, this understanding doesn't alter the broader statutory definition of grandparent, which as I explain next, is not limited to "legal" grandparents.

¶37 The majority's interpretation of the word grandparent in section 19-1-103(70)(a) is also inconsistent with the term's expansive definition. The majority repeatedly emphasizes that that the Sullivans were no longer "legal" grandparents. Maj. op. ¶¶ 2, 5. In doing so, it distorts and narrows the definition of grandparent in section 19-1-103(70)(a). Consequently, the majority fails to recognize the expansive scope of the definition, which explicitly encompasses both biological grandparents ("related to the child by blood, in whole or by half") as well as persons who become related to the grandchild through legal proceedings ("[by] adoption, or marriage"). § 19-1-103(70)(a). This misstep—and its focus on the word "is"—distracts the majority from recognizing that the Sullivans are unquestionably grandparents under section 19-1-103(70)(a).

¶38 What's more, the majority's interpretation of section 19-1-103(70)(a) is in direct conflict with section 19-1-103(70)(b), which excludes from the definition of "grandparent" those grandparents whose children's parental rights have been terminated. Unlike section 19-1-103(70)(a), the exclusion in section 19-1-103(70)(b) explicitly includes the phrase "*legal* father or mother." § 19-1-103(70)(b) (emphasis added). Given that the basic definition of "parent" includes *both* biological parents ("a natural parent of a child") and legal parents ("a parent by adoption"), *see* § 19-1-103(105)(a), it is clear that the legislature knows how to distinguish the broader definition of parent or grandparent from a narrower one limited to "legal" parents and "legal" grandparents.

¶39 In my view, the majority's reading of section 19-1-103(70)(a) runs afoul of one of our basic rules of statutory interpretation. We "must respect the legislature's choice of language," and thus "we may not add words to a statute or subtract words from it." *People in Int. of B.C.B.*, 2025 CO 28, ¶ 25, __ P.3d __. The specific inclusion of the word "legal" in section 19-1-103(70)(b) clearly evinces the General Assembly's intent to not limit section 19-1-103(70)(a) to *legal* parents; indeed, had it intended to, it would have explicitly included the word "legal" just like it did in section 19-1-103(70)(b).

¶40 The majority's approach also makes the adoption exclusion in section 19-1-117(1)(b) largely superfluous. If a grandparent is automatically

disqualified from petitioning for reasonable visitation upon a grandchild's adoption pursuant to section 19-1-103(70)(a), then the adoption exclusion, as found solely in section 19-1-117(1)(b), serves no purpose. And "we must avoid constructions that would render any statutory words or phrases superfluous or that would lead to illogical or absurd results." *B.C.B.*, ¶ 24.

¶41 The majority's interpretation of the word grandparent also renders section 19-1-103(70)(b) largely superfluous. Why? Because if the majority's interpretation of section 19-1-103(70)(a) is correct, then there is no need for section 19-1-103(70)(b) because, as soon as a grandchild is adopted post-termination, a grandparent would no longer be the parent of the adopted child's parent. That is, section 19-1-103(70)(a) would already cover that situation.

¶42 I note as well that the majority's pronouncement that adoption "instantly nullif[ies] grandparentage," *Maj. op.* ¶ 18, is belied by the language of section 19-1-103(70)(a). What if twelve-year-old Patrick is adopted, not by his great-aunt and great-uncle, but by his maternal aunt after his parents die in a car accident? One of his maternal grandparents could still—under the explicit language of section 19-1-103(70)(a)—seek reasonable grandparent visitation with the child. The grandmother could do this as "a person who is the parent of a child's father or mother [the maternal aunt], who is related to the child by blood." § 19-1-103(70)(a). But Patrick's paternal grandparents could not seek visitation.

Thus, it appears that the rule the majority announces is perhaps not so logical after all.

¶43 Each of these many flaws in the majority's reasoning highlights that adoption does not instantly nullify grandparentage. They illustrate, instead, that the only way to construe subsections (70)(a) and (b) harmoniously is to read section 19-1-103(70)(a) as applying to *all* parents, not just the current *legal* parents, and to read section 19-1-103(70)(b) as creating an exception for grandparents when their child's parental rights – their legal rights as parents – are terminated.

¶44 Thus, as I see it, the Sullivans qualify as grandparents because they *are still* the parents of the children's father and *are still* related to the children by blood. And under the Grandparent Visitation Statute, the Sullivans may seek visitation rights because, under section 19-1-117(1)(c), the child's parent, who *is* their child, has died. This relationship is not extinguished by death, and the General Assembly has not adopted some time-bending definition of grandparent that says that it does. The Sullivans *are* the biological parents of the children's father; they are related to K.M.S. and M.D.S. by blood, and R.E.S. by adoption; and their son's parental rights as to the children had not been terminated at the time of his death. Thus, the Sullivans have standing to seek reasonable visitation with their three grandchildren under the Grandparent Visitation Statute.

¶45 Finally, I note that the question of whether the Sullivans should be allowed to have grandparent visitation with their three grandchildren is not the issue before us. Rather, the question we address is whether the Sullivans have the legal right to even ask for visitation. It is ultimately up to the trial court, applying *Troxel v. Granville*, 530 U.S. 57, 68, 70 (2000), to decide if the Sullivans should be granted visitation. To make this determination, the court must apply the traditional presumption that a fit parent will act in the best interest of his or her child, and thus the court must give “special weight” to the Nicholases’ determination regarding what is in the children’s best interests. *Id.* at 69.

II. Conclusion

¶46 Because section 19-1-117(1)(c) grants grandparents standing to seek visitation rights if their child (the grandchild’s parent) has died, and nothing in the expansive definition of the term grandparent in section 19-1-103(70)(a) changes that, I would affirm the judgment of the court of appeals.