

1 GRANDPARENTS' VISITATION RIGHTS

2 2011 GENERAL SESSION

3 STATE OF UTAH

4 Chief Sponsor: David P. Hinkins

5 House Sponsor: _____

6
7 LONG TITLE

8 General Description:

9 This bill expands the conditions under which grandparents may request visitation rights
10 with their grandchildren.

11 Highlighted Provisions:

12 This bill:

- 13 ▶ allows grandparents to request visitation rights when their grandchildren are in state
- 14 custody.

15 Money Appropriated in this Bill:

16 None

17 Other Special Clauses:

18 None

19 Utah Code Sections Affected:

20 AMENDS:

21 30-5-2, as last amended by Laws of Utah 2005, Chapter 129

22
23 *Be it enacted by the Legislature of the state of Utah:*

24 Section 1. Section 30-5-2 is amended to read:

25 **30-5-2. Visitation rights of grandparents.**

26 (1) Grandparents have standing to bring an action in district court by petition,
27 requesting visitation in accordance with the provisions and requirements of this section.



28 Grandparents may also file a petition for visitation rights:

29 (a) in a pending divorce proceeding [~~or other~~];

30 (b) in a proceeding involving custody and visitation issues[-]; or

31 (c) when their grandchildren are in state custody.

32 (2) There is a rebuttable presumption that a parent's decision with regard to
33 grandparent visitation is in the grandchild's best interests. However, the court may override the
34 parent's decision and grant the petitioner reasonable rights of visitation if the court finds that
35 the petitioner has rebutted the presumption based upon factors which the court considers to be
36 relevant, such as whether:

37 (a) the petitioner is a fit and proper person to have visitation with the grandchild;

38 (b) visitation with the grandchild has been denied or unreasonably limited;

39 (c) the parent is unfit or incompetent;

40 (d) the petitioner has acted as the grandchild's custodian or caregiver, or otherwise has
41 had a substantial relationship with the grandchild, and the loss or cessation of that relationship
42 is likely to cause harm to the grandchild;

43 (e) the petitioner's child, who is a parent of the grandchild, has died, or has become a
44 noncustodial parent through divorce or legal separation;

45 (f) the petitioner's child, who is a parent of the grandchild, has been missing for an
46 extended period of time; or

47 (g) visitation is in the best interest of the grandchild.

48 (3) The adoption of a grandchild by the grandchild's stepparent does not diminish or
49 alter visitation rights previously ordered under this section.

50 (4) Subject to the provisions of Subsections (2) and (3), the court may inquire of the
51 grandchild and take into account the grandchild's desires regarding visitation.

52 (5) On the petition of a grandparent or the legal custodian of a grandchild the court
53 may, after a hearing, modify an order regarding grandparent visitation if:

54 (a) the circumstances of the grandchild, the grandparent, or the custodian have
55 materially and substantially changed since the entry of the order to be modified, or the order
56 has become unworkable or inappropriate under existing circumstances; and

57 (b) the court determines that a modification is appropriate based upon the factors set
58 forth in Subsection (2).

59 (6) Grandparents may petition the court to remedy a parent's wrongful noncompliance
60 with a visitation order.

Legislative Review Note
as of **2-17-11 12:59 PM**

Office of Legislative Research and General Counsel