

**Representative LaVar Christensen** proposes the following substitute bill:

**RIGHTS OF GRANDPARENTS TO CHILD VISITATION**

2014 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: LaVar Christensen**

Senate Sponsor: Wayne A. Harper

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**LONG TITLE**

**General Description:**

This bill amends provisions concerning the visitation rights of a grandparent.

**Highlighted Provisions:**

This bill:

- ▶ amends definitions; and
- ▶ provides that a grandparent may petition for visitation after a parent's rights have been terminated, unless the grandchild is adopted by a nonrelative.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**30-5-1**, as last amended by Laws of Utah 2002, Chapter 85

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

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

Section 1. Section **30-5-1** is amended to read:



26           **30-5-1. Definitions.**

27           As used in this act:

28           (1) "District court" means the district court with proper jurisdiction over the  
29 grandchild.

30           (2) "Grandchild" means the child with respect to whom a grandparent is seeking  
31 visitation rights under this chapter.

32           (3) "Grandparent," except as otherwise provided in this chapter, means [~~a person~~] an  
33 individual whose child, either by blood, marriage, or adoption, is the parent of the grandchild.

34           (4) "Nonrelative" means an individual who is not related to the grandchild by blood or  
35 marriage at the time of the adoption.

36           Section 2. Section **30-5-2** is amended to read:

37           **30-5-2. Visitation rights of grandparents.**

38           (1) Grandparents have standing to bring an action in district court by petition,  
39 requesting visitation in accordance with the provisions and requirements of this section.  
40 Grandparents may also file a petition for visitation rights in a pending divorce proceeding or  
41 other proceeding involving custody and visitation issues.

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

47           (a) the petitioner is a fit and proper [~~person~~] individual to have visitation with the  
48 grandchild;

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

50           (c) the parent is unfit or incompetent;

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

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

56           (f) the petitioner's child, who is a parent of the grandchild, has been missing for an

57 extended period of time; or

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

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

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

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

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

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

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

72 (7) (a) The rights of grandparents pursuant to this section are not extinguished when a  
73 parent's rights are terminated under Title 78A, Chapter 6, Part 5, Termination of Parental  
74 Rights Act, unless the grandchild is adopted by a nonrelative.

75 (b) For purposes of this Subsection (7), a grandparent means an individual:

76 (i) whose child's parental rights are terminated; and

77 (ii) whose child is the parent of the grandchild by blood or marriage.