

HB0418S01 compared with HB0418

~~{deleted text}~~ shows text that was in HB0418 but was deleted in HB0418S01.

inserted text shows text that was not in HB0418 but was inserted into HB0418S01.

DISCLAIMER: This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

Representative LaVar Christensen proposes the following substitute bill:

RIGHTS OF ~~{RELATIVES}~~GRANDPARENTS TO CHILD VISITATION

2014 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: LaVar Christensen

Senate Sponsor: _____

LONG TITLE

General Description:

This bill ~~{enacts}~~amends provisions concerning the ~~{Postadoption Visitation for Relatives Act}~~visitation rights of a grandparent.

Highlighted Provisions:

This bill:

- ▶ ~~{defines terms;~~
- ▶ ~~describes public policy provisions related to this bill;~~
- ▶ ~~permits a relative of a child who has been adopted by another relative to petition the court}~~amends definitions; and
- ▶ provides that a grandparent may petition for visitation ~~{with the child, and to rebut the presumption that the relative adoptive parent's decision to deny the relative visitation with the child is in the best interest of the child; and~~

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- ~~enacts a provision giving the court discretion to override the relative adoptive parent's decision regarding visitation and grant the relative reasonable rights of visitation if the court finds that the relative has rebutted the presumption by clear and convincing evidence, by establishing that:~~
- ~~the relative is a fit and proper person to have visitation with the child;~~
 - ~~the relative adoptive parent has denied or unreasonably limited the relative's visitation with the child;~~
 - ~~the relative has acted as the child's custodian or caregiver, or otherwise has had a substantial relationship with the child, and the loss or cessation of that relationship is likely to cause harm to the child; and~~
 - ~~visitation with the relative is in the best interest of the child}~~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:

~~{ENACTS}~~AMENDS:

~~{30-5b-101, Utah Code Annotated 1953~~

~~30-5b-102, Utah Code Annotated 1953~~

~~30-5b-103, Utah Code Annotated 1953}~~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

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

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

30-5-1. Definitions.

As used in this act:

- (1) "District court" means the district court with proper jurisdiction over the grandchild.
- (2) "Grandchild" means the child with respect to whom a grandparent is seeking

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visitation rights under this chapter.

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

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

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

30-5-2. Visitation rights of grandparents.

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

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

- (a) the petitioner is a fit and proper [person] individual to have visitation with the grandchild;
- (b) visitation with the grandchild has been denied or unreasonably limited;
- (c) the parent is unfit or incompetent;
- (d) the petitioner has acted as the grandchild's custodian or caregiver, or otherwise has had a substantial relationship with the grandchild, and the loss or cessation of that relationship is likely to cause harm to the grandchild;
- (e) the petitioner's child, who is a parent of the grandchild, has died, or has become a noncustodial parent through divorce or legal separation;
- (f) the petitioner's child, who is a parent of the grandchild, has been missing for an extended period of time; or
- (g) visitation is in the best interest of the grandchild.

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

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

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

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

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

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

~~{Section 1. Section 30-5b-101 is enacted to read:~~

~~CHAPTER 5b. POSTADOPTION VISITATION FOR RELATIVES ACT~~

~~30-5b-101. Title.~~

~~This chapter is known as the "Postadoption Visitation for Relatives Act."~~

~~Section 2. Section 30-5b-102 is enacted to read:~~

~~30-5b-102. Definitions.~~

~~As used in this chapter:~~

~~(1) "Relative";~~ (7) (a) The rights of grandparents pursuant to this section are not extinguished when a parent's rights are terminated under Title 78A, Chapter 6, Part 5, Termination of Parental Rights Act, unless the grandchild is adopted by a nonrelative.

(b) For purposes of this Subsection (7), a grandparent means an individual related to the child by marriage or blood as:

~~(a) a sibling;~~

~~(b) an aunt;~~

~~(c) an uncle; or~~

~~(d) a grandparent.~~

~~(2) "Relative adoptive parent" means an individual who:~~

~~(a) has legally adopted a child; and~~

~~(b) is a relative of the child.~~

~~(3) "Relative adoption" means an adoption in which a relative adopts a child.~~

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~~Section 3. Section 30-5b-103 is enacted to read:~~

~~30-5b-103. Postadoption visitation for relatives:~~

~~(1) In accordance with Sections 78B-6-137 through 78B-6-139, after a decree of adoption is entered:~~

~~(a) a preexisting parent of an adopted child is released from all parental duties and responsibilities for the adopted child;~~

~~(b) the child of a relative adoptive parent shall be regarded and treated in all respects as the child of the relative adoptive parent; and~~

~~(c) the relative adoptive parent and the child shall sustain the legal relationship of a parent and child and have all the rights and be subject to all the duties of that relationship.~~

~~(2) In accordance with Section 62A-4a-201, it is the public policy of this state that a parent, including a relative adoptive parent, retains the fundamental right and duty to exercise primary control over the care, supervision, upbringing, and education of the parent's child.~~

~~(3) It is also the public policy of this state that a relative of the child may petition for visitation, subject to the provisions of this section, when the child has been placed in a relative adoption.~~

~~(4) There is a presumption that the decisions of a fit and competent relative adoptive parent, including denying a relative visitation with a child, are in the child's best interest.~~

~~(5) The court may override the relative adoptive parent's decision regarding visitation and grant the relative reasonable rights of visitation if the court finds that the relative has rebutted the presumption described in Subsection (4) by clear and convincing evidence, by establishing that:~~

~~(a) the relative is a fit and proper person to have visitation with the child;~~

~~(b) the relative adoptive parent has denied or unreasonably limited the relative's visitation with the child;~~

~~(c) the relative has acted as the child's custodian or caregiver, or otherwise has had a substantial relationship with the child, and the loss or cessation of that relationship is likely to cause harm to the child; and~~

~~(d) visitation with the relative is in the best interest of the child.~~

~~(6) A relative may seek a court order overriding a relative adoptive parent's decision regarding visitation with the relative by filing a verified petition, or a petition supported by an~~

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~~affidavit, in the juvenile court if a matter is pending, or in the district court in the county in which the child:~~

~~—— (a) currently resides; or~~

~~—— (b) lived with a relative adoptive parent within six months before the commencement of the action.~~

~~—— (7) A petition under this chapter may be filed in a pending adoption proceeding.~~

~~—— (8) The petition shall include detailed facts supporting the relative's right to file the petition, including the criteria described in Subsection (5).~~

~~—— (9) Upon the filing of a petition of a relative or a relative adoptive parent, the court may, after a hearing, modify an order regarding relative visitation if:~~

~~—— (a) (i) the circumstances of the child, the relative, or the relative adoptive parent have materially and substantially changed since the entry of the order to be modified; or~~

~~—— (ii) the order has become unworkable or inappropriate under existing circumstances; and~~

~~—— (b) the court determines that a modification is appropriate based upon the criteria described in Subsection (5).~~

~~—— (10) A relative may petition the court to remedy a relative adoptive parent's wrongful noncompliance with a visitation order.~~

Legislative Review Note

~~—— as of 2-26-14 6:49 AM~~

Office of Legislative Research and General Counsel:

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

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