

HB0164S01 compared with HB0164

~~text~~ shows text that was in HB0164 but was deleted in HB0164S01.

text shows text that was not in HB0164 but was inserted into HB0164S01.

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.

Senator Todd Weiler proposes the following substitute bill:

GRANDPARENT RIGHTS AMENDMENTS

2015 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: LaVar Christensen

Senate Sponsor: ~~_____~~ Mark B. Madsen

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:

HB0164S01 compared with HB0164

~~{AMENDS}~~ ENACTS:

~~{30-5-2}~~ 30-5-3, ~~{ as last amended by Laws of }~~ Utah ~~{2005, Chapter 129}~~, Code
Annotated 1953

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

Section 1. Section ~~{30-5-2}~~ 30-5-3 is ~~{amended}~~ enacted to read:

~~{30-5-2}~~ 30-5-3. ~~{ Visitation rights of grandparents}~~ Special considerations.

(1) As used in this section:

(a) "Grandparent" means ~~{the same as that term is defined in Section 30-5-1 and~~
includes a grandparent of a child:

~~——— (i) whose parent's rights are}~~ a person:

(i) whose child, either by blood, marriage, or adoption has had the child's parental
rights terminated under Title 78A, Chapter 6, Part 5, Termination of Parental Rights Act; and

(ii) ~~{who}~~ whose grandchild is being adopted by a relative ~~{of the child at the time of~~
adoption}.

(b) "Nonrelative" means an individual ~~{who is } not {a relative of}~~ related to the
grandchild by marriage or blood at the time of adoption.

(c) "Relative" means an individual related to the grandchild by marriage or blood as:

(i) a sibling;

(ii) an aunt;

(iii) an uncle; or

(iv) a grandparent.

~~{——— (1) (2) 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) (3) 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:~~

HB0164S01 compared with HB0164

- ~~_____ (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)] (4) The adoption of a grandchild by the grandchild's stepparent does not diminish or alter visitation rights previously ordered under this section.~~
- ~~_____ [(4)] (5) Subject to the provisions of Subsections [(2)] (3) and [(3)] (4), the court may inquire of the grandchild and take into account the grandchild's desires regarding visitation.~~
- ~~_____ [(5)] (6) 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)] (3).~~
- ~~_____ [(6)] (7) Grandparents may petition the court to remedy a parent's wrongful noncompliance with a visitation order.~~
- ~~‡~~ (18)2) Unless the ~~{child}~~ grandchild is adopted by a nonrelative, when a parent's rights are terminated under Title 78A, Chapter 6, Part 5, Termination of Parental Rights Act:
 - (a) the rights of a grandparent ~~{of a child}~~ as to the grandchild are not extinguished;

and

 - (b) a grandparent ~~{of a child}~~ may:
 - ~~_____ (i) bring an action or file a petition for visitation rights as described in Subsection (2);~~

HB0164S01 compared with HB0164

~~or~~

~~_____ (ii) file a petition for visitation rights in a pending adoption matter in juvenile ~~{ court }~~ or district court.~~

~~†~~

Legislative Review Note

~~_____ as of 1-22-15 1:51 PM~~

~~—Office of Legislative Research and General Counsel (3) There is a rebuttable presumption that the adoptive parent's decision with regard to grandparent visitation is in the grandchild's best interest. However, the court may override the adoptive parent's decision and grant the grandparent who petitions for visitation reasonable rights of visitation if the court finds that the grandparent has rebutted the presumption based upon factors that the court considers to be relevant, such as whether:~~

~~(a) the grandparent is a fit and proper individual to have visitation with the grandchild;~~

~~(b) the grandparent's visitation with the grandchild has been denied or unreasonably limited, without just cause;~~

~~(c) the grandparent 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;~~

~~(d) visitation will not disrupt the formation of a new family unit; or~~

~~(e) visitation is in the best interest of the grandchild.~~

~~(4) Subject to the provisions of Subsection (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 the grandchild the court may, after a hearing, modify an order regarding grandparent visitation if:~~

~~(a) the circumstances of the grandchild, the grandparent, or the legal 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~~

HB0164S01 compared with HB0164

(b) the court determines that a modification is appropriate based upon the factors set forth in Subsection (3).

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