

Senator Todd Weiler proposes the following substitute bill:

GRANDPARENT RIGHTS AMENDMENTS

2016 THIRD SPECIAL SESSION

STATE OF UTAH

Chief Sponsor: LaVar Christensen

Senate Sponsor: J. Stuart Adams

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

- ▶ enacts 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:

This bill provides a special effective date.

Utah Code Sections Affected:

ENACTS:

30-5-3, Utah Code Annotated 1953

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

Section 1. Section **30-5-3** is enacted to read:

30-5-3. Special considerations.



- 26 (1) As used in this section:
- 27 (a) "Grandparent" means an individual:
- 28 (i) whose child, either by blood, marriage, or adoption, has had the child's parental
29 rights terminated under Title 78A, Chapter 6, Part 5, Termination of Parental Rights Act; and
- 30 (ii) whose grandchild is being adopted by a relative.
- 31 (b) "Nonrelative" means an individual who is not a relative and is not related to the
32 grandchild by marriage or blood at the time of adoption.
- 33 (c) "Relative" means an individual related to the grandchild by marriage or blood as:
- 34 (i) a sibling;
- 35 (ii) an aunt;
- 36 (iii) an uncle; or
- 37 (iv) a grandparent.
- 38 (2) Unless the grandchild is adopted by a nonrelative, when a parent's rights are
39 terminated under Title 78A, Chapter 6, Part 5, Termination of Parental Rights Act:
- 40 (a) the rights of a grandparent are not extinguished; and
- 41 (b) a grandparent shall file a petition for visitation rights in the court where the
42 adoption decree was entered.
- 43 (3) (a) There is a presumption that the adoptive parent's decision with regard to
44 grandparent visitation is in the grandchild's best interest.
- 45 (b) The court may override the presumption that the adoptive parent's decision
46 regarding grandparent visitation is in the grandchild's best interest and may grant the
47 grandparent reasonable rights of visitation only in the exceptional case where the court finds
48 that denying visitation would result substantial harm to the grandchild from the loss of a
49 substantial relationship with the grandparent.
- 50 (c) For purposes of this Subsection (3), "a substantial relationship" means that the
51 grandparent has fulfilled the role of custodian or caregiver to the grandchild.
- 52 (d) If the court finds that denying visitation would cause substantial harm to the
53 grandchild as described in Subsection (3)(b), the court may also consider:
- 54 (i) whether the grandparent is a fit and proper person to have visitation with the
55 grandchild; or
- 56 (ii) the grandchild's desires regarding visitation.

57 (4) On the petition of a grandparent or the adoptive parent of the grandchild, the court
58 may, after a hearing, modify an order regarding grandparent visitation if:

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

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

64 (5) A grandparent may petition the court to remedy an adoptive parent's wrongful
65 noncompliance with a visitation order.

66 (6) A grandparent's petition for visitation rights for an adoption that is finalized on or
67 after January 1, 2017, shall be filed within two years of the date on which:

68 (a) the final decree of adoption is entered; or

69 (b) the adoptive parent ended the grandparent's visitation.

70 (7) For an adoption that is finalized before January 1, 2017, or for a circumstance in
71 which an adoptive parent ended the grandparent's visitation before January 1, 2017, the
72 grandparent may not file a petition for visitation rights.

73 (8) A grandparent may not file multiple petitions for visitation rights under this section.

74 (9) For any adoption by a relative, as defined in this section, that is finalized after
75 January 1, 2017, the court shall give notice or confirm actual notice to the adoptive parents of
76 the provisions of this section.

77 **Section 2. Effective date.**

78 If approved by two-thirds of all the members elected to each house, this bill takes effect
79 upon approval by the governor, or the day following the constitutional time limit of Utah
80 Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto,
81 the date of veto override.