

Superseded 5/12/2020

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 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.
- (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.