

GRANDPARENTS VISITATION RIGHTS

2000 GENERAL SESSION

STATE OF UTAH

Sponsor: Terry R. Spencer

AN ACT RELATING TO GRANDPARENTS; CLARIFYING GRANDPARENTS' STANDING TO BRING AN ACTION IN DISTRICT COURT; MODIFYING THE DEFINITION OF GRANDPARENT; CHANGING THE STANDARDS FOR REBUTTING PRESUMPTION REGARDING A PARENT'S DECISION; MAKING CERTAIN PROVISIONS FOR STEPPARENT ADOPTIONS; AND PROVIDING THAT UNDER CERTAIN CIRCUMSTANCES GRANDPARENTS MAY HAVE A PRESUMPTION FOR CONTINUED COURT-ORDERED VISITATION AFTER A GRANDCHILD HAS BEEN ADOPTED OR PARENTAL RIGHTS HAVE BEEN TERMINATED.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

30-5-1, as last amended by Chapter 175, Laws of Utah 1992

30-5-2, as last amended by Chapter 104, Laws of Utah 1998

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 within whose jurisdiction the grandchildren reside.

(2) "Grandchildren" means the child or children that a grandparent is seeking visitation rights with under this chapter.

(3) "Grandparent" means a person whose child, either by blood, marriage, or adoption, is the parent of the grandchildren.

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 requesting visitation in

accordance with the provisions and requirements of this section.

~~[(1)]~~ (2) The district court may grant grandparents reasonable rights of visitation, if it is in the best interest of the grandchildren, in cases where a grandparent's child has died or has become a noncustodial parent through divorce or legal separation.

~~[(2)]~~ (3) In cases other than those described in Subsection ~~[(1)]~~ (2), a grandparent may petition the court for reasonable rights of visitation with a grandchild. The court may enter an order granting the petitioner reasonable visitation rights in accordance with the provisions and requirements of this Subsection ~~[(2)]~~ (3). There is a presumption that a parent's decision with regard to grandparent visitation is reasonable. The court may override the parent's decision and grant reasonable visitation rights to a grandparent if it finds that:

- (a) it is in the best interest of the grandchild;
 - (b) the petitioner is a fit and proper person to have rights of visitation with the grandchild;
 - (c) the petitioner has repeatedly attempted to visit the grandchild and has not been allowed to visit the grandchild as a direct result of the actions of the parent or parents;
 - (d) there is no other way for the petitioner to visit the grandchild without court intervention;
- and

(e) the petitioner has~~[-by clear and convincing evidence,]~~ rebutted the presumption that the parent's decision to refuse or limit visitation with the grandchild was reasonable.

~~[(3) Adoption]~~ (4) (a) There is a presumption that adoption of a child, voluntary or involuntary termination of parental rights, or relinquishment to a licensed child placing agency terminates all rights of a [biological] grandparent to petition for visitation under this section. That presumption may be rebutted if the court finds that a child has established a relationship with the grandparent, and that the child's continued contact with the grandparent will be in the best interest of the child.

(b) Nothing in this Subsection (4) affects visitation rights of a grandparent that have been ordered by a court pursuant to this section, if the grandchild is adopted by the grandchild's stepparent.

~~[(4)]~~ (5) Grandparents may petition the court as provided in Section 78-32-12.2 to remedy a parent's wrongful noncompliance with a visitation order.

