

Senator Curtis S. Bramble proposes the following substitute bill:

PARENT AND CHILD AMENDMENTS

2007 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Curtis S. Bramble

House Sponsor: _____

LONG TITLE

General Description:

This bill establishes public policy regarding in loco parentis.

Highlighted Provisions:

This bill:

- ▶ defines in loco parentis as a legally recognized, voluntary and temporary delegation of parental power and preserves common law meaning of "in loco parentis";

- ▶ provides that in loco parentis, unless authorized by statute, may not be used to grant parent-time, visitation, custody, legal guardianship, child support, or adoption of a minor child or in a manner that violates public policy;

- ▶ allows a court of competent jurisdiction, under limited circumstances and through clear and convincing evidence, to prevent the termination of an in loco parentis relationship by a parent; and

- ▶ provides that this bill does not affect any established rights of a step parent or grandparent.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None



26 **Utah Code Sections Affected:**

27 ENACTS:

28 **78-62-1**, Utah Code Annotated 1953



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

31 Section 1. Section **78-62-1** is enacted to read:

32 **78-62-1. In loco parentis.**

33 (1) As used in this section:

34 (a) (i) Except as provided in this section, "in loco parentis" has the same meaning and
35 application accorded that term under common law.

36 (ii) "In loco parentis" means the voluntary and temporary delegation to another person
37 of parental authority and responsibility for a minor child.

38 (b) "Person" means an individual acting on their own behalf or in a capacity provided
39 for by statute.

40 (2) In accordance with Section 62A-41-201, it is the public policy of this state that
41 parents retain the fundamental right and duty to exercise primary control over the care,
42 supervision, upbringing, and education of their children. Unless specifically authorized by
43 statute, in loco parentis may not be used as the sole basis for granting to any person:

44 (a) parent-time or visitation;

45 (b) legal or physical custody;

46 (c) status as a legal guardian;

47 (d) child support; or

48 (e) an adoption.

49 (3) A biological or adoptive parent may at any time terminate a relationship between a
50 person standing in loco parentis and their minor child or children, unless a court of competent
51 jurisdiction concludes, based on clear and convincing evidence, that:

52 (a) the parent attempting to terminate an in loco parentis relationship is an unfit parent;
53 or

54 (b) the decision to terminate an in loco parentis relationship would harm the child.

55 (4) This section does not effect any established rights of a step parent or grandparent,
56 or rights provided under Title 78, Judicial Code, or Title 30, Husband and Wife.

57

(5) In loco parentis may not be used in a manner that violates public policy.

S.B. 248 1st Sub. (Green) - Parent and Child Amendments

Fiscal Note

2007 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.
