

30 Section 1. Section **30-5a-101** is enacted to read:

31 **CHAPTER 5a. CUSTODY AND VISITATION FOR PERSONS**

32 **OTHER THAN PARENTS ACT**

33 **Part 1. General Provisions**

34 **30-5a-101. Title.**

35 This chapter is known as the "Custody and Visitation for Persons Other than Parents
36 Act."

37 Section 2. Section **30-5a-102** is enacted to read:

38 **30-5a-102. Definitions.**

39 As used in this chapter:

40 (1) "Parent" means a biological or adoptive parent.

41 (2) "Person other than a parent" means a person related to the child by marriage or
42 blood, including:

43 (a) siblings;

44 (b) aunts;

45 (c) uncles;

46 (d) grandparents; or

47 (e) current or former step-parents, or any of the persons in Subsections (2)(a) through
48 (d) in a step relationship to the child.

49 Section 3. Section **30-5a-103** is enacted to read:

50 **30-5a-103. Custody and visitation for persons other than a parent.**

51 (1) In accordance with Section 62A-4a-201, it is the public policy of this state that
52 parents retain the fundamental right and duty to exercise primary control over the care,
53 supervision, upbringing, and education of their children. There is a rebuttable presumption that
54 a parent's decisions are in the child's best interests.

55 (2) A court may find the presumption in Subsection (1) rebutted and grant custodial or
56 visitation rights to a person other than a parent who, by clear and convincing evidence, has
57 established all of the following:

- 58 (a) the person has intentionally assumed the role and obligations of a parent;
- 59 (b) the person and the child have formed an emotional bond and created a parent-child
- 60 type relationship;
- 61 (c) the person contributed emotionally or financially to the child's well being;
- 62 (d) assumption of the parental role is not the result of a financially compensated
- 63 surrogate care arrangement;
- 64 (e) continuation of the relationship between the person and the child would be in the
- 65 child's best interests;
- 66 (f) loss or cessation of the relationship between the person and the child would be
- 67 detrimental to the child; and
- 68 (g) the parent:
- 69 (i) is absent; or
- 70 (ii) is found by a court to have abused or neglected the child.
- 71 (3) A proceeding under this chapter may be commenced by filing a verified petition, or
- 72 petition supported by an affidavit, in the juvenile court if a matter is pending, or in the district
- 73 court in the county in which the child:
- 74 (a) currently resides; or
- 75 (b) lived with a parent or a person other than a parent who acted as a parent within six
- 76 months before the commencement of the action.
- 77 (4) A proceeding under this chapter may be filed in a pending divorce, parentage action,
- 78 or other proceeding, including a proceeding in the juvenile court, involving custody of or
- 79 visitation with a child.
- 80 (5) The petition shall include detailed facts supporting the petitioner's right to file the
- 81 petition including the criteria set forth in Subsection (2) and residency information as set forth in
- 82 Section 78B-13-209.
- 83 (6) A proceeding under this chapter may not be filed against a parent who is actively
- 84 serving outside the state in any branch of the military.
- 85 (7) Notice of a petition filed pursuant to this chapter shall be served in accordance with

86 the rules of civil procedure on all of the following:

87 (a) the child's biological, adopted, presumed, declarant, and adjudicated parents;

88 (b) any person who has court-ordered custody or visitation rights;

89 (c) the child's guardian;

90 (d) the guardian ad litem, if one has been appointed;

91 (e) a person or agency that has physical custody of the child or that claims to have

92 custody or visitation rights; and

93 (f) any other person or agency that has previously appeared in any action regarding

94 custody of or visitation with the child.

95 (8) The court may order a custody evaluation to be conducted in any action brought

96 under this chapter.

97 (9) The court may enter temporary orders in an action brought under this chapter

98 pending the entry of final orders.