

**CUSTODY AND PARENT-TIME FOR
NON-PARENTS**

2008 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Lyle W. Hillyard

House Sponsor: Kay L. McIff

LONG TITLE

General Description:

This bill allows persons who are related to a child and have assumed the role of parent to petition the court for custody or parent-time.

Highlighted Provisions:

This bill:

- ▶ defines "person other than a parent" as a person who is related to a child;
- ▶ provides a procedure for a person other than a parent to gain custody or parent-time;
- ▶ requires notice to a parent, guardian, or state agency with an interest; and
- ▶ provides that it may not be used against a person serving in the military who is

outside the state.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

30-5a-101, Utah Code Annotated 1953

30-5a-102, Utah Code Annotated 1953

30-5a-103, Utah Code Annotated 1953



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

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

**CHAPTER 5a. CUSTODY AND PARENT-TIME FOR PERSONS
OTHER THAN PARENTS ACT
Part 1. General Provisions**

30-5a-101. Title.

This chapter is known as the "Custody and Parent-time for Persons Other than Parents Act."

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

30-5a-102. Definitions.

As used in this chapter:

- (1) "Parent" means a biological or adoptive parent.
- (2) "Person other than a parent" means a person related to the child by marriage or blood, including:
 - (a) siblings;
 - (b) aunts;
 - (c) uncles;
 - (d) grandparents; or
 - (e) step-parents, or any of the persons in Subsections (2)(a) through (d) in a step relationship to the child.

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

30-5a-103. Custody and parent-time for persons other than a parent.

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

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

- (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) has consented or acquiesced to the parental role of the person;

70 (ii) is absent; or

71 (iii) is found by a court to be abusive, neglectful, or to have left the child dependent
72 through the fault of the parent.

73 (3) A proceeding under this chapter may be commenced by filing a verified petition, or
74 petition supported by an affidavit, in the district court in the county in which the child:

75 (a) currently resides; or

76 (b) lived with a parent or a person other than a parent who acted as a parent within six
77 months before the commencement of the action.

78 (4) A proceeding under this chapter may be filed in a pending divorce, parentage
79 action, or other proceeding involving custody and parent-time issues.

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
82 in Section 78-45c-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 parent-time 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 parent-time rights; and
93 (f) any other person or agency that has previously appeared in any action regarding
94 custody or parent-time of 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.

Legislative Review Note
as of 1-30-08 8:56 AM

Office of Legislative Research and General Counsel