

**Representative Christine F. Watkins** proposes the following substitute bill:

**GRANDPARENTS' VISITATION RIGHTS**

2011 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: David P. Hinkins**

House Sponsor: Christine F. Watkins

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**LONG TITLE**

**General Description:**

This bill expands the ability of grandparents to visit with their grandchildren who are in state custody.

**Highlighted Provisions:**

This bill:

► requires that grandparents are considered for visitation with grandchildren who are in state custody.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**62A-4a-205**, as last amended by Laws of Utah 2009, Chapter 161

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

Section 1. Section **62A-4a-205** is amended to read:

**62A-4a-205. Child and family plan -- Parent-time.**



26 (1) No more than 45 days after a child enters the temporary custody of the division, the  
27 child's child and family plan shall be finalized.

28 (2) (a) The division may use an interdisciplinary team approach in developing each  
29 child and family plan.

30 (b) The interdisciplinary team described in Subsection (2)(a) may include  
31 representatives from the following fields:

- 32 (i) mental health;
- 33 (ii) education; and
- 34 (iii) if appropriate, law enforcement.

35 (3) (a) The division shall involve all of the following in the development of a child's  
36 child and family plan:

- 37 (i) both of the child's natural parents, unless the whereabouts of a parent are unknown;
- 38 (ii) the child;
- 39 (iii) the child's foster parents; and
- 40 (iv) if appropriate, the child's stepparent.

41 (b) In relation to all information considered by the division in developing a child and  
42 family plan, additional weight and attention shall be given to the input of the child's natural and  
43 foster parents upon their involvement pursuant to Subsections (3)(a)(i) and (iii).

44 (c) (i) The division shall make a substantial effort to develop a child and family plan  
45 with which the child's parents agree.

46 (ii) If a parent does not agree with a child and family plan:

47 (A) the division shall strive to resolve the disagreement between the division and the  
48 parent; and

49 (B) if the disagreement is not resolved, the division shall inform the court of the  
50 disagreement.

51 (4) A copy of the child and family plan shall, immediately upon completion, or as soon  
52 as reasonably possible thereafter, be provided to the:

- 53 (a) guardian ad litem;
- 54 (b) child's natural parents; and
- 55 (c) child's foster parents.

56 (5) Each child and family plan shall:

- 57 (a) specifically provide for the safety of the child, in accordance with federal law; and  
58 (b) clearly define what actions or precautions will, or may be, necessary to provide for  
59 the health, safety, protection, and welfare of the child.
- 60 (6) The child and family plan shall set forth, with specificity, at least the following:
- 61 (a) the reason the child entered into the custody of the division;  
62 (b) documentation of the:
- 63 (i) reasonable efforts made to prevent placement of the child in the custody of the  
64 division; or
- 65 (ii) emergency situation that existed and that prevented the reasonable efforts described  
66 in Subsection (6)(b)(i), from being made;
- 67 (c) the primary permanency goal for the child and the reason for selection of that goal;  
68 (d) the concurrent permanency goal for the child and the reason for the selection of that  
69 goal;
- 70 (e) if the plan is for the child to return to the child's family:
- 71 (i) specifically what the parents must do in order to enable the child to be returned  
72 home;
- 73 (ii) specifically how the requirements described in Subsection (6)(e)(i) may be  
74 accomplished; and
- 75 (iii) how the requirements described in Subsection (6)(e)(i) will be measured;
- 76 (f) the specific services needed to reduce the problems that necessitated placing the  
77 child in the division's custody;
- 78 (g) the name of the person who will provide for and be responsible for case  
79 management;
- 80 (h) subject to Subsection (10), a parent-time schedule between the natural parent and  
81 the child;
- 82 (i) subject to Subsection (7), the health and mental health care to be provided to  
83 address any known or diagnosed mental health needs of the child;
- 84 (j) if residential treatment rather than a foster home is the proposed placement, a  
85 requirement for a specialized assessment of the child's health needs including an assessment of  
86 mental illness and behavior and conduct disorders; and
- 87 (k) social summaries that include case history information pertinent to case planning.

88 (7) (a) Subject to Subsection (7)(b), in addition to the information required under  
89 Subsection (6)(i), the plan shall include a specialized assessment of the medical and mental  
90 health needs of a child, if the child:

- 91 (i) is placed in residential treatment; and
- 92 (ii) has medical or mental health issues that need to be addressed.

93 (b) Notwithstanding Subsection (7)(a), a parent shall retain the right to seek a separate  
94 medical or mental health diagnosis of the parent's child from a licensed practitioner of the  
95 parent's choice.

96 (8) (a) Each child and family plan shall be specific to each child and the child's family,  
97 rather than general.

98 (b) The division shall train its workers to develop child and family plans that comply  
99 with:

- 100 (i) federal mandates; and
- 101 (ii) the specific needs of the particular child and the child's family.

102 (c) All child and family plans and expectations shall be individualized and contain  
103 specific time frames.

104 (d) Subject to Subsection (8)(h), child and family plans shall address problems that:

- 105 (i) keep a child in placement; and
- 106 (ii) keep a child from achieving permanence in the child's life.

107 (e) Each child and family plan shall be designed to minimize disruption to the normal  
108 activities of the child's family, including employment and school.

109 (f) In particular, the time, place, and amount of services, hearings, and other  
110 requirements ordered by the court in the child and family plan shall be designed, as much as  
111 practicable, to help the child's parents maintain or obtain employment.

112 (g) The child's natural parents, foster parents, and where appropriate, stepparents, shall  
113 be kept informed of and supported to participate in important meetings and procedures related  
114 to the child's placement.

115 (h) For purposes of Subsection (8)(d), a child and family plan may only include  
116 requirements that:

- 117 (i) address findings made by the court; or
- 118 (ii) (A) are requested or consented to by a parent or guardian of the child; and

119 (B) are agreed to by the division and the guardian ad litem.

120 (9) (a) Except as provided in Subsection (9)(b), with regard to a child who is three  
121 years of age or younger, if the goal is not to return the child home, the permanency plan for that  
122 child shall be adoption.

123 (b) Notwithstanding Subsection (9)(a), if the division documents to the court that there  
124 is a compelling reason that adoption, reunification, guardianship, and a placement described in  
125 Subsection 78A-6-306(6)(e) are not in the child's best interest, the court may order another  
126 planned permanent living arrangement in accordance with federal law.

127 (10) (a) Except as provided in Subsection (10)(b), parent-time may only be denied by a  
128 court order issued pursuant to Subsections 78A-6-312(2)(a)(ii) and (b).

129 (b) Notwithstanding Subsection (10)(a), the person designated by the division or a  
130 court to supervise a parent-time session may deny parent-time for that session if the supervising  
131 person determines that, based on the parent's condition, it is necessary to deny parent-time in  
132 order to:

133 (i) protect the physical safety of the child;

134 (ii) protect the life of the child; or

135 (iii) consistent with Subsection (10)(c), prevent the child from being traumatized by  
136 contact with the parent.

137 (c) In determining whether the condition of the parent described in Subsection (10)(b)  
138 will traumatize a child, the person supervising the parent-time session shall consider the impact  
139 that the parent's condition will have on the child in light of:

140 (i) the child's fear of the parent; and

141 (ii) the nature of the alleged abuse or neglect.

142 (11) The division shall consider visitation with their grandparents for children in state  
143 custody if the division determines visitation to be in the best interest of the child and:

144 (a) there are no safety concerns regarding the behavior or criminal background of the  
145 grandparents;

146 (b) allowing visitation would not compete with or undermine reunification goals;

147 (c) there is a substantial relationship between the grandparents and children; and

148 (d) the visitation will not unduly burden the foster parents.

# FISCAL NOTE

S.B. 286 1st Sub. (Green)

SHORT TITLE: **Grandparents' Visitation Rights**

SPONSOR: **Hinkins, D.**

2011 GENERAL SESSION, STATE OF UTAH

STATE GOVERNMENT (UCA 36-12-13(2)(b))

Enactment of this bill likely will not materially impact the state budget.

LOCAL GOVERNMENTS (UCA 36-12-13(2)(c))

Enactment of this bill likely will not result in direct, measurable costs for local governments.

DIRECT EXPENDITURES BY UTAH RESIDENTS AND BUSINESSES (UCA 36-12-13(2)(d))

Enactment of this bill likely will not result in direct, measurable expenditures by Utah residents or businesses.