

**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 conditions under which grandparents may request visitation rights with their grandchildren.

**Highlighted Provisions:**

This bill:

- ▶ allows grandparents to request visitation rights when their grandchildren are in state custody.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**30-5-2**, as last amended by Laws of Utah 2005, Chapter 129

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

Section 1. 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 by petition, requesting visitation in accordance with the provisions and requirements of this section.



28 Grandparents may also file a petition for visitation rights:

29       (a) in a pending divorce proceeding [~~or other~~];

30       (b) in a proceeding involving custody and visitation issues[-]; or

31       (c) when their grandchildren are in state custody.

32       (2) There is a rebuttable presumption that a parent's decision with regard to  
33 grandparent visitation is in the grandchild's best interests. However, the court may override the  
34 parent's decision and grant the petitioner reasonable rights of visitation if the court finds that  
35 the petitioner has rebutted the presumption based upon factors which the court considers to be  
36 relevant, such as whether:

37           (a) the petitioner is a fit and proper person to have visitation with the grandchild;

38           (b) visitation with the grandchild has been denied or unreasonably limited;

39           (c) the parent is unfit or incompetent;

40           (d) the petitioner has acted as the grandchild's custodian or caregiver, or otherwise has  
41 had a substantial relationship with the grandchild, and the loss or cessation of that relationship  
42 is likely to cause harm to the grandchild;

43           (e) the petitioner's child, who is a parent of the grandchild, has died, or has become a  
44 noncustodial parent through divorce or legal separation;

45           (f) the petitioner's child, who is a parent of the grandchild, has been missing for an  
46 extended period of time; or

47           (g) visitation is in the best interest of the grandchild.

48       (3) The adoption of a grandchild by the grandchild's stepparent does not diminish or  
49 alter visitation rights previously ordered under this section.

50       (4) Subject to the provisions of Subsections (2) and (3), the court may inquire of the  
51 grandchild and take into account the grandchild's desires regarding visitation.

52       (5) On the petition of a grandparent or the legal custodian of a grandchild the court  
53 may, after a hearing, modify an order regarding grandparent visitation if:

54           (a) the circumstances of the grandchild, the grandparent, or the custodian have  
55 materially and substantially changed since the entry of the order to be modified, or the order  
56 has become unworkable or inappropriate under existing circumstances; and

57           (b) the court determines that a modification is appropriate based upon the factors set  
58 forth in Subsection (2).

59           (6) Grandparents may petition the court to remedy a parent's wrongful noncompliance  
60 with a visitation order.

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**Legislative Review Note**  
as of **2-17-11 12:59 PM**

**Office of Legislative Research and General Counsel**

# FISCAL NOTE

S.B. 286

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 will cost the Courts \$41,400 ongoing from the General Fund to hear and determine grandparent petitions for visitation involving grandchildren in state custody beginning in FY 2012.

### STATE BUDGET DETAIL TABLE

	FY 2011	FY 2012	FY 2013
Revenue	\$0	\$0	\$0
Expenditure:			
General Fund	\$0	\$41,400	\$41,400
Total Expenditure	\$0	\$41,400	\$41,400
Net Impact, All Funds (Rev.-Exp.)	\$0	(\$41,400)	(\$41,400)
Net Impact, General/Education Funds	\$0	(\$41,400)	(\$41,400)

## 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.