

28 • visitation with the relative is in the best interest of the child.

29 **Money Appropriated in this Bill:**

30 None

31 **Other Special Clauses:**

32 None

33 **Utah Code Sections Affected:**

34 ENACTS:

35 **30-5b-101**, Utah Code Annotated 1953

36 **30-5b-102**, Utah Code Annotated 1953

37 **30-5b-103**, Utah Code Annotated 1953



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

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

41 **CHAPTER 5b. POSTADOPTION VISITATION FOR RELATIVES ACT**

42 **30-5b-101. Title.**

43 This chapter is known as the "Postadoption Visitation for Relatives Act."

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

45 **30-5b-102. Definitions.**

46 As used in this chapter:

47 (1) "Relative" means an individual related to the child by marriage or blood as:

48 (a) a sibling;

49 (b) an aunt;

50 (c) an uncle; or

51 (d) a grandparent.

52 (2) "Relative adoptive parent" means an individual who:

53 (a) has legally adopted a child; and

54 (b) is a relative of the child.

55 (3) "Relative adoption" means an adoption in which a relative adopts a child.

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

57 **30-5b-103. Postadoption visitation for relatives.**

58 (1) In accordance with Sections **78B-6-137** through **78B-6-139**, after a decree of

59 adoption is entered:

60 (a) a preexisting parent of an adopted child is released from all parental duties and
61 responsibilities for the adopted child;

62 (b) the child of a relative adoptive parent shall be regarded and treated in all respects as
63 the child of the relative adoptive parent; and

64 (c) the relative adoptive parent and the child shall sustain the legal relationship of a
65 parent and child and have all the rights and be subject to all the duties of that relationship.

66 (2) In accordance with Section 62A-4a-201, it is the public policy of this state that a
67 parent, including a relative adoptive parent, retains the fundamental right and duty to exercise
68 primary control over the care, supervision, upbringing, and education of the parent's child.

69 (3) It is also the public policy of this state that a relative of the child may petition for
70 visitation, subject to the provisions of this section, when the child has been placed in a relative
71 adoption.

72 (4) There is a presumption that the decisions of a fit and competent relative adoptive
73 parent, including denying a relative visitation with a child, are in the child's best interest.

74 (5) The court may override the relative adoptive parent's decision regarding visitation
75 and grant the relative reasonable rights of visitation if the court finds that the relative has
76 rebutted the presumption described in Subsection (4) by clear and convincing evidence, by
77 establishing that:

78 (a) the relative is a fit and proper person to have visitation with the child;

79 (b) the relative adoptive parent has denied or unreasonably limited the relative's
80 visitation with the child;

81 (c) the relative has acted as the child's custodian or caregiver, or otherwise has had a
82 substantial relationship with the child, and the loss or cessation of that relationship is likely to
83 cause harm to the child; and

84 (d) visitation with the relative is in the best interest of the child.

85 (6) A relative may seek a court order overriding a relative adoptive parent's decision
86 regarding visitation with the relative by filing a verified petition, or a petition supported by an
87 affidavit, in the juvenile court if a matter is pending, or in the district court in the county in
88 which the child:

89 (a) currently resides; or

90 (b) lived with a relative adoptive parent within six months before the commencement
91 of the action.

92 (7) A petition under this chapter may be filed in a pending adoption proceeding.

93 (8) The petition shall include detailed facts supporting the relative's right to file the
94 petition, including the criteria described in Subsection (5).

95 (9) Upon the filing of a petition of a relative or a relative adoptive parent, the court
96 may, after a hearing, modify an order regarding relative visitation if:

97 (a) (i) the circumstances of the child, the relative, or the relative adoptive parent have
98 materially and substantially changed since the entry of the order to be modified; or

99 (ii) the order has become unworkable or inappropriate under existing circumstances;

100 and

101 (b) the court determines that a modification is appropriate based upon the criteria
102 described in Subsection (5).

103 (10) A relative may petition the court to remedy a relative adoptive parent's wrongful
104 noncompliance with a visitation order.

Legislative Review Note
as of 2-26-14 6:49 AM

Office of Legislative Research and General Counsel