

GRANDPARENT RIGHTS AMENDMENTS

2015 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: LaVar Christensen

Senate Sponsor: Mark B. Madsen

LONG TITLE

General Description:

This bill amends provisions concerning the visitation rights of a grandparent.

Highlighted Provisions:

This bill:

- ▶ amends definitions; and
- ▶ provides that a grandparent may petition for visitation after a parent's rights have been terminated, unless the grandchild is adopted by a nonrelative.

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

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) As used in this section:

(a) "Grandparent" means the same as that term is defined in Section **30-5-1** and



28 includes a grandparent of a child:

29 (i) whose parent's rights are terminated under Title 78A, Chapter 6, Part 5, Termination
30 of Parental Rights Act; and

31 (ii) who is adopted by a relative of the child at the time of adoption.

32 (b) "Nonrelative" means an individual who is not a relative of the grandchild at the
33 time of adoption.

34 (c) "Relative" means an individual related to the grandchild by marriage or blood as:

35 (i) a sibling;

36 (ii) an aunt;

37 (iii) an uncle; or

38 (iv) a grandparent.

39 ~~[(+)]~~ (2) Grandparents have standing to bring an action in district court by petition,
40 requesting visitation in accordance with the provisions and requirements of this section.

41 Grandparents may also file a petition for visitation rights in a pending divorce proceeding or
42 other proceeding involving custody and visitation issues.

43 ~~[(2)]~~ (3) There is a rebuttable presumption that a parent's decision with regard to
44 grandparent visitation is in the grandchild's best interests. However, the court may override the
45 parent's decision and grant the petitioner reasonable rights of visitation if the court finds that
46 the petitioner has rebutted the presumption based upon factors which the court considers to be
47 relevant, such as whether:

48 (a) the petitioner is a fit and proper ~~[person]~~ individual to have visitation with the
49 grandchild;

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

51 (c) the parent is unfit or incompetent;

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

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

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

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

60 ~~[(3)]~~ (4) The adoption of a grandchild by the grandchild's stepparent does not diminish
61 or alter visitation rights previously ordered under this section.

62 ~~[(4)]~~ (5) Subject to the provisions of Subsections ~~[(2)]~~ (3) and ~~[(3)]~~ (4), the court may
63 inquire of the grandchild and take into account the grandchild's desires regarding visitation.

64 ~~[(5)]~~ (6) On the petition of a grandparent or the legal custodian of a grandchild the
65 court may, after a hearing, modify an order regarding grandparent visitation if:

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

69 (b) the court determines that a modification is appropriate based upon the factors set
70 forth in Subsection ~~[(2)]~~ (3).

71 ~~[(6)]~~ (7) Grandparents may petition the court to remedy a parent's wrongful
72 noncompliance with a visitation order.

73 (8) Unless the child is adopted by a nonrelative, when a parent's rights are terminated
74 under Title 78A, Chapter 6, Part 5, Termination of Parental Rights Act:

75 (a) the rights of a grandparent of a child are not extinguished; and

76 (b) a grandparent of a child may:

77 (i) bring an action or file a petition for visitation rights as described in
77a Subsection ~~H→ s ←H~~ (2) ~~H→~~ and (3) ~~←H~~ ;

78 or

79 (ii) file a petition for visitation rights in a pending adoption matter in juvenile court or
80 district court.

Legislative Review Note

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Office of Legislative Research and General Counsel