

28 (i) whose child, either by blood, marriage, or adoption, has had the child's parental
29 rights terminated under Title 78A, Chapter 6, Part 5, Termination of Parental Rights Act; and

30 (ii) whose grandchild is being adopted by a relative.

31 (b) "Nonrelative" means an individual not related to the grandchild by marriage or
32 blood at the time of adoption.

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

34 (i) a sibling;

35 (ii) an aunt;

36 (iii) an uncle; or

37 (iv) a grandparent.

38 (2) Unless the grandchild is adopted by a nonrelative, when a parent's rights are
39 terminated under Title 78A, Chapter 6, Part 5, Termination of Parental Rights Act:

40 (a) the rights of a grandparent of a grandchild are not extinguished; and

41 (b) a grandparent may file a petition for visitation rights in juvenile or district court.

42 (3) (a) There is a rebuttable presumption that the adoptive parent's decision with regard
43 to grandparent visitation is in the grandchild's best interest.

44 (b) The court may override the adoptive parent's decision described in Subsection

45 (3)(a) and grant the petitioner reasonable rights of visitation if the court finds that the petitioner
46 has rebutted the presumption based upon factors that the court considers to be relevant, such as
47 whether:

48 (i) the petitioner is a fit and proper individual to have visitation with the grandchild;

49 (ii) visitation with the grandchild has been unfairly denied or unreasonably limited, and
50 without just or compelling cause;

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

54 (iv) visitation will not disrupt the formation of a new family unit; or

55 (v) visitation is in the best interest of the grandchild.

56 (4) Subject to the provisions of Subsection (3), the court may inquire of the grandchild
57 and take into account the grandchild's desires regarding grandparent visitation.

58 (5) On the petition of a grandparent or the adoptive parent of the grandchild, the court

59 may, after a hearing, modify an order regarding grandparent visitation if:

60 (a) the circumstances of the grandchild, the grandparent, or the adoptive parent have
61 materially and substantially changed since the entry of the order to be modified, or the order
62 has become unworkable or inappropriate under existing circumstances; and

63 (b) the court determines that a modification is appropriate based upon the factors set
64 forth in Subsection (3).

65 (6) A grandparent may petition the court to remedy an adoptive parent's wrongful
66 noncompliance with a visitation order.

Legislative Review Note
Office of Legislative Research and General Counsel