

GRANDPARENT RIGHTS AMENDMENTS

2016 THIRD SPECIAL SESSION

STATE OF UTAH

Chief Sponsor: LaVar Christensen

Senate Sponsor: J. Stuart Adams

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

- ▶ enacts 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:

This bill provides a special effective date.

Utah Code Sections Affected:

ENACTS:

30-5-3, Utah Code Annotated 1953

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

Section 1. Section **30-5-3** is enacted to read:

30-5-3. Special considerations.

(1) As used in this section:

(a) "Grandparent" means an individual:



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 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) Despite the presumption provided in Subsection (3)(a), the court may grant the
45 petitioner reasonable rights of visitation if the court finds that the petitioner has rebutted the
46 presumption and finds that visitation is in the grandchild's best interest. The court may consider
47 relevant factors, including 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; or

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

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

57 (5) On the petition of a grandparent or the adoptive parent of the grandchild, the court
58 may, after a hearing, modify an order regarding grandparent visitation if:

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

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

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

66 (7) A grandparent's petition for visitation rights for an adoption that is finalized after
67 January 1, 2017, shall be filed within two years of the date on which:

68 (a) the final decree of adoption is entered; or

69 (b) the adoptive parent ended the grandparent's visitation.

70 (8) For an adoption that is finalized before January 1, 2017, or for a circumstance in
71 which an adoptive parent ended the grandparent's visitation before January 1, 2017, the
72 grandparent may file a petition for visitation rights on or before December 31, 2019.

73 (9) A grandparent may not file multiple petitions for visitation rights under this section.

74 (10) For any adoption that is finalized after January 1, 2017, the court shall give notice
75 or confirm actual notice to the adoptive parents of the provisions of this section.

76 **Section 2. Effective date.**

77 If approved by two-thirds of all the members elected to each house, this bill takes effect
78 upon approval by the governor, or the day following the constitutional time limit of Utah
79 Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto,
80 the date of veto override.

Legislative Review Note
Office of Legislative Research and General Counsel