



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 Subsection (2);  
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**