

Senator Todd Weiler proposes the following substitute bill:

**GRANDPARENT RIGHTS AMENDMENTS**

2015 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: LaVar Christensen**

Senate Sponsor: Mark B. Madsen

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**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:**

ENACTS:

**30-5-3**, Utah Code Annotated 1953

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*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.**



- 26 (1) As used in this section:
- 27 (a) "Grandparent" means a person:
- 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 as to the grandchild are not extinguished; and
- 41 (b) a grandparent may file a petition for visitation rights in a pending adoption matter
- 42 in juvenile or district court.
- 43 (3) There is a rebuttable presumption that the adoptive parent's decision with regard to
- 44 grandparent visitation is in the grandchild's best interest. However, the court may override the
- 45 adoptive parent's decision and grant the grandparent who petitions for visitation reasonable
- 46 rights of visitation if the court finds that the grandparent has rebutted the presumption based
- 47 upon factors that the court considers to be relevant, such as whether:
- 48 (a) the grandparent is a fit and proper individual to have visitation with the grandchild;
- 49 (b) the grandparent's visitation with the grandchild has been denied or unreasonably
- 50 limited, without just cause;
- 51 (c) the grandparent has acted as the grandchild's custodian or caregiver, or otherwise
- 52 has had a substantial relationship with the grandchild, and the loss or cessation of that
- 53 relationship is likely to cause harm to the grandchild;
- 54 (d) visitation will not disrupt the formation of a new family unit; or
- 55 (e) 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 visitation.

58 (5) On the petition of a grandparent or the legal custodian 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 legal custodian 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) Grandparents may petition the court to remedy an adoptive parent's wrongful  
66 noncompliance with a visitation order.